

SENATE BILL NO. 166

BY SENATORS CONNICK, ALLAIN AND FESI

1 AN ACT

2 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
3 to repeal R.S. 40:4(A)(1)(b) and R.S. 56:578.14, relative to seafood safety; to
4 provide for powers and duties of the commissioner of agriculture; to prohibit
5 misleading packaging and marketing of seafood products; to provide for state
6 procurement of seafood products; to provide for food establishment requirements;
7 to provide for retailer requirements; to provide for powers and duties of the
8 Louisiana Department of Health; to provide definitions; to provide for penalties; to
9 provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

12 **§4706. Seafood; misleading packaging and marketing**

13 **A. The legislature finds that consumers must be protected from**
14 **misleading and false labeling of seafood products. Louisiana's seafood culture**
15 **is world renowned and is a vital part of our culture and heritage. It is not only**
16 **potentially misleading but dangerous to public health to solely rely on names**
17 **and phrases associated with Louisiana when purchasing or consuming seafood.**
18 **Phrases such as "Boudreauxs", "Gulf", and "Louisiana caught" are often on**
19 **products that are from foreign countries that are not adhering to the same**
20 **quality standards as Louisiana. Consumers need to be well informed on what**
21 **seafood they are purchasing and consuming.**

22 **B.(1) No person shall engage in marketing, labeling, packaging, or**
23 **advertising of crawfish, shrimp, or any product thereof, that implies or suggests**
24 **any association with Louisiana's culture and heritage if the association is likely**
25 **to deceive the public as to its origin.**

26 **(2) No person shall market crawfish, shrimp, or any product thereof**
27 **using any Louisiana-related imagery, phrases, colors, or styles if the products**

1 are not genuinely linked to Louisiana's cultural heritage and produced within
2 the state or landed within the state.

3 (3) The prohibition in this Subsection shall not apply if the country of
4 origin appears on the front of the package in thirty point Arial Black font.

5 C. The commissioner shall be responsible for ensuring compliance with
6 this Section. When the commissioner has reason to believe that a violation has
7 occurred, the commissioner may do any of the following:

8 (1) Issue a stop order prohibiting the continued distribution and sale of
9 the seafood product.

10 (a) Any violation of a stop order shall constitute a separate violation.

11 (b) A stop order may be released by the commissioner upon a
12 determination by the commissioner that the cause for issuing the stop order has
13 been remedied.

14 (c) Any person aggrieved by a stop order may petition the commissioner
15 for a hearing to contest the validity of the stop order by making a written
16 request within five calendar days after issuance of the stop order. The hearing
17 shall be held within ten calendar days of receipt of the written request for a
18 hearing. The commissioner may appoint a hearing officer to preside over the
19 matter. The commissioner shall issue a ruling in the matter. The hearing and
20 any subsequent appeal shall be held in accordance with the provisions of the
21 Administrative Procedure Act.

22 (d) Based upon the results of the hearing, or a consent agreement, the
23 commissioner may take one or more of the following actions:

24 (i) Release the stop order.

25 (ii) Require the cause for the stop order to be remedied prior to releasing
26 the stop order.

27 (iii) Amend the stop order.

28 (2) Issue fines for violations of this Section as follows:

29 (a) For a first offense, a fine of not more than fifteen thousand dollars for
30 each violation.

1 **(b) For a second offense, a fine of not more than twenty-five thousand**
2 **dollars for each violation.**

3 **(c) For a third and subsequent offense, a fine of not more than fifty**
4 **thousand dollars for each violation.**

5 **D. If the commissioner issues a stop order for any crawfish, shrimp, or**
6 **any product thereof, a retailer shall have a claim for reimbursement against the**
7 **distributor that supplied the product in violation of this Section.**

8 **E. Penalties shall apply only to a person that places a label on crawfish,**
9 **shrimp, or any product thereof, and may be assessed only by a ruling of the**
10 **commissioner based upon an adjudicatory hearing held by the Louisiana**
11 **Commission of Weights and Measures pursuant to R.S. 3:4605.**

12 **F. The commissioner shall promulgate rules in accordance with the**
13 **Administrative Procedure Act as are necessary to enforce the provisions of this**
14 **Section.**

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

16 §2101. Food service facilities; use of certified meat, poultry, and seafood products

17 A.**(1)** All state agencies, state institutions, or local school districts operating
18 food service facilities for students, or for patients or inmates in their custody, shall
19 utilize only those meat, poultry, and seafood products that have met all Louisiana
20 Department of Agriculture and Forestry requirements for grading and certification
21 service.

22 **(2) All state agencies, state institutions, or local school districts operating**
23 **food service facilities for students, or for patients or inmates in their custody,**
24 **shall only utilize domestic shrimp or domestic crawfish as defined in R.S.**
25 **40:5.5.2.**

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

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

6 Section 3. R.S. 40:5.5.2 and 5.5.4 are hereby amended and reenacted to read as
 7 follows:

8 §5.5.2. ~~Chinese seafood warning label program~~ Seafood safety

9 A. The legislature finds that serious risks to public health may be posed by
 10 radiation, antibiotics, such as chloramphenicol and fluoroquinolones, chemicals,
 11 malachite green, copper salts, and other residues found in ~~Chinese~~ seafood that
 12 originates from outside of the United States. The overexposure to antibiotics from
 13 such seafood may cause serious antibiotic resistance to the consumer. In addition,
 14 chemicals such as malachite green are known carcinogens. It is the intent of the
 15 legislature to protect the health and welfare of Louisiana consumers from potentially
 16 harmful residues in imported seafood ~~imported from the People's Republic of China~~
 17 ~~that are~~ is sold or served in Louisiana. The legislature further recognizes that the
 18 magnitude of the health risks associated with imported seafood requires the full
 19 cooperation and collaboration of the Louisiana Department of Health,
 20 Louisiana Department of Agriculture and Forestry, Louisiana Department of
 21 Wildlife and Fisheries, the Department of Culture, Tourism and Recreation,
 22 and the Department of Environmental Quality. ~~Therefore, the legislature finds~~
 23 ~~that Louisiana consumers have the right to know if seafood imported from the~~
 24 ~~People's Republic of China is being served in a food service establishment or is~~
 25 ~~available for purchase.~~

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

30 (2) The state health officer, in consultation with the Seafood Safety Task

1 **Force, office of the lieutenant governor, the Louisiana Seafood Promotion and**
 2 **Marketing Board,** and the Louisiana Restaurant Association shall employ a
 3 marketing campaign that places an emphasis on highlighting the benefits of eating
 4 domestic seafood.

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

9 ~~Ð~~**(4)** With the cooperation and assistance of the Louisiana Retailers
 10 Association, the Louisiana Restaurant Association, and other necessary
 11 organizations, the state health officer in conjunction with the Department of
 12 Agriculture and Forestry shall encourage the display of the signage and other
 13 promotional literature as provided for in ~~Subsection C~~ of this Section where seafood
 14 sales occur.

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

17 **(1) "Commingle" means to cause to blend together, mix, or combine**
 18 **domestic and imported seafood.**

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

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

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

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

30 **(a) Caught in Louisiana waters, the Gulf of Mexico, or any other**

1 adjacent state waters and landed and processed in Louisiana.

2 (b) Caught, landed, and processed in the United States and has satisfied
 3 the same or substantially equivalent testing and labeling requirements of this
 4 state.

5 * * *

6 §5.5.4. Imported crawfish and shrimp; notice to patrons of food service
 7 establishments required

8 A. ~~As reflected in Act No. 330 of the 2009 Regular Session of the~~
 9 ~~Legislature, this state recognizes that serious risks to public health may be posed by~~
 10 ~~antibiotics, radiation, and numerous toxins found in seafood products, including but~~
 11 ~~not limited to crawfish and shrimp, that originate outside of the United States. It~~
 12 ~~remains the intent of the legislature to protect Louisiana consumers from potentially~~
 13 ~~harmful chemicals and residues in seafood products that are imported from foreign~~
 14 ~~countries and sold or served in food service establishments in this state. Therefore,~~
 15 ~~the legislature declares that Louisiana consumers have the right to know if crawfish~~
 16 ~~or shrimp imported from a foreign country is being served in a food service~~
 17 ~~establishment, as the consumption of such seafood may pose a health risk.~~

18 B.~~(1)~~ Any food service establishment that uses a menu as a standard business
 19 practice and sells or provides cooked or prepared crawfish or shrimp that originate
 20 outside of the United States shall display **the following disclaimer in a clearly**
 21 **visible location on the menu:**

22 **"Some items served at this establishment may contain imported crawfish**
 23 **or shrimp. Ask for more information."**

24 ~~on all menus the country of origin of such crawfish or shrimp, or denote that the~~
 25 ~~crawfish or shrimp are imported, in letters no smaller than the same size, font, and~~
 26 ~~shade as the product being offered, immediately adjacent to the menu listing of the~~
 27 ~~seafood item being sold. In lieu of this requirement, the notice shall be paper-clipped~~
 28 ~~to the menu, with the same location, size, font, and shade restrictions required when~~
 29 ~~the notice is listed directly on the menu.~~

30 ~~(2)~~**B.(1)** Any food service establishment that does not use a menu as a

1 standard business practice and sells or provides cooked or prepared crawfish or
2 shrimp that originate outside of the United States shall display **the following**
3 **disclaimer** on a sign posted at the main entrance to the establishment:

4 **"Some items served at this establishment may contain imported seafood.**

5 **Ask for more information."**

6 ~~that certain crawfish or shrimp, as applicable, being served within originate from a~~
7 ~~foreign country.~~

8 (2) Each sign shall be at least eighteen inches tall and eighteen inches wide
9 and shall be written in the English language in letters not less than one inch in size.
10 The sign shall be placed in an open area and in a conspicuous position not less than
11 thirty-six inches from the floor so that it is visible to all patrons.

12 ~~C. Any violation of this Section shall constitute a violation of the state~~
13 ~~sanitary code.~~

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

18 **(2) All representations, notices, and declarations made to the general**
19 **public under this provision shall state clearly whether or not the crawfish or**
20 **shrimp being sold to the consumer at the point of purchase is either domestic**
21 **or imported.**

22 **D. For any seafood that is sold unpackaged, a food establishment shall**
23 **clearly display the country of origin in a manner that is easily visible to the**
24 **consumer.**

25 **E.(1) The Louisiana Department of Health shall be responsible for**
26 **ensuring compliance with this Section. Any violation of this Section shall**
27 **constitute a violation of the state Sanitary Code. The department shall issue**
28 **finances for violations of this Section as follows:**

29 **(a) For a first offense, a fine of not less than two hundred dollars and not**
30 **more than five hundred dollars per violation. The department, in its discretion,**

1 may provide an opportunity for corrective action in lieu of a fine for a first
 2 offense.

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

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

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

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

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

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

25 ~~E.I.~~ For purposes of this Section, "food service establishment" shall have the
 26 meaning ascribed in R.S. 40:5.5. mean any establishment provided for in R.S.
 27 40:5.5 and any seafood market, grocer, vehicle, or other entity or person that
 28 sells food directly to the public for consumption.

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

30 Section 5. The Louisiana Department of Health and the Louisiana Department of

1 Agriculture and Forestry shall individually promulgate, in accordance with the
2 Administrative Procedure Act, any emergency rules necessary to implement the provisions
3 of this Act relevant to that department.

4 Section 6. This Act shall become effective on January 1, 2025.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____