AN ACT

To enact Subpart H of Part II of Chapter 30 of Title 3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 3:4711 through 4718, relative to country of origin labeling for catfish products; to require retail and food service establishments to notify consumers of the country of origin of catfish; to provide for notification requirements; to provide for definitions; to provide relative to advertising of catfish products; to authorize the commissioner to regulate and inspect retail and food service establishments; to provide for penalties; to provide for testing procedures; to require a cooperative endeavor agreement; to authorize the commissioner to adopt rules and regulations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart H of Part II of Chapter 30 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:4711 through 4718, is hereby enacted to read as follows:

SUBPART H. LOUISIANA CATFISH MARKETING LAW

§4711. Short title
This Subpart shall be cited as the "Louisiana Catfish Marketing Law".

§4712. Legislative findings
The legislature finds that aquaculture sales and consumption have increased worldwide and that the use of antibiotics or chemicals not approved for use in food-producing animals in the United States is permitted in aquaculture in other countries and that consumers of aquaculture in Louisiana should be provided clear information as to where the aquaculture product originates to protect the health and welfare of
Louisiana consumers. The legislature further finds that food-misrepresentation or
the passing off of less expensive aquaculture products as pricier aquaculture products
to unknowing customers and retailers has become an issue in the marketplace and
is a deceitful practice. Consumers and retailers should be informed of the country
of origin and species of fish in the marketplace.

§4713. Definitions

As used in this Subpart, the following terms shall have the meanings ascribed
below:

(1) "Catfish" means only those species within the family Ictaluridae, Ariidae
or Loricariidae.

(2) "Catfish product" means any item capable of use as human food which
is made wholly or in part from any catfish or portion thereof, except products which
contain catfish only in small proportions or historically have not been, in the
judgment of the commissioner, considered by consumers as products of the United
States commercial catfish industry and which are exempted from definition as a
catfish product by the commissioner under such conditions as he may prescribe to
assure that the catfish or portions thereof contained therein are not adulterated and
that such products are not represented as catfish products. "Catfish product" shall
be deemed capable of use as human food unless it is denatured or otherwise
identified as required by regulations prescribed by the commissioner to deter its use
as human food, or unless it is naturally inedible to humans.

(3) "Commissioner" means the Louisiana commissioner of agriculture and
forestry.

(4) "Department" means the Louisiana Department of Agriculture and
Forestry.

(5) "Direct retail sale" means the sale of catfish, catfish products,
siluriformes, or siluriforme products individually or in small quantities directly to the
consumer.
"Distributor" means any person offering for sale, exchange, or barter any catfish, catfish products, siluriformes, or siluriforme products destined for direct retail sale in Louisiana.

"Farm-raised catfish" means a catfish that has been specifically produced in fresh water according to the usual and customary techniques of commercial aquaculture and includes fillets, steaks, nuggets, and any other flesh from a "farm-raised catfish".

"Food service establishment" means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

"Label" means a display of written, printed, or graphic matter upon or affixed to the container or wrapper in which catfish, catfish products, siluriformes, or siluriforme products are offered for direct retail sale.

"Labeling" means all labels and other written, printed, or graphic matter upon a catfish, catfish product, siluriforme, or siluriforme product or any of its containers or wrappers, offered for direct retail sale.

"Menu" means any listing of food and beverage options for a diner or customer to select from regardless of its form.

"Person" includes any individual, partnership, corporation, and association, or other legal entity.

"Processor" means any person engaged in handling, storing, preparing, manufacturing, packing, or holding catfish, catfish products, siluriformes, or siluriforme products.

"Producer" means any person engaged in the business of harvesting catfish or siluriformes, by any method, intended for direct retail sale.

"Product name" means the name of the catfish, catfish product, siluriforme, or siluriforme product intended for retail sale which identifies it as to kind, class, or specific use.

"Retailer" means any person offering for sale catfish, catfish products, siluriformes, or siluriforme products to individual consumers and representing the
last sale prior to human consumption and includes food service establishments unless otherwise stated herein.

(17) "River or lake catfish" means a catfish that has been produced in a freshwater lake, river, or stream but has not been produced according to the usual and customary techniques of commercial aquaculture.

(18) "Siluriforme" means fish in the taxonomic order Siluriformes and including those within the taxonomic families Siluridae, Clariidae, and Pangasiidae and those commonly known as basa and tra.

(19) "Siluriforme product" means any item capable of use as human food which is made wholly or in part from any siluriforme or portion thereof. “Siluriforme product” shall be deemed capable of use as human food unless it is denatured or otherwise identified as required by regulations prescribed by the commissioner to deter its use as human food, or unless it is naturally inedible to humans.

(20) "Wholesaler" means any person offering for sale any catfish, catfish products, siluriformes, or siluriforme products destined for direct retail sale in Louisiana.

§4714. Notice of country of origin

A. All retailers of catfish, catfish products, siluriformes, or siluriforme products shall notify consumers, at the final point of sale of the catfish, catfish products, siluriformes, or siluriforme products to the consumers, of the country of origin of the catfish, catfish products, siluriformes, or siluriforme products.

B. A retailer of catfish or catfish products may designate the catfish or catfish product as having a United States country of origin only if:

(1) It is hatched, raised, harvested, and processed in the United States, in the case of farm-raised catfish.

(2) It is harvested in waters of the United States or a territory of the United States and is processed in the United States or a territory of the United States, in the case of river or lake catfish.

C. The notice of country of origin for catfish shall distinguish between farm raised or wild caught.
D.(1) Retailers shall notify consumers of the country of origin of the catfish, catfish products, siluriformes, or siluriforme products by means of a label, stamp, mark, placard, or other clear and visible sign on the catfish, catfish products, siluriformes, or siluriforme products, or on the package, display, holding unit, or bin containing the catfish, catfish products, siluriformes, or siluriforme products at the final point of sale to consumers.

(2) If the catfish, catfish products, siluriformes, or siluriforme products are already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with the requirements of this Subpart.

(3) The commissioner may require that any person that prepares, stores, handles, or distributes catfish, catfish products, siluriformes, or siluriforme products for retail sale maintain a verifiable recordkeeping audit trail that permits the commissioner to verify compliance with this Subpart and any rules or regulations promulgated hereunder.

E.(1) No owner or manager of a restaurant that sells imported catfish shall misrepresent to the public, either verbally, on a menu, or on signs displayed on the premises, that the catfish is domestic.

(2) If the food service establishment offers for sale only catfish or catfish products having a United States country of origin, they may notify consumers of this information with a sign placed in a prominent location in the food service establishment in lieu of disclosure on the menu.

(3) Signs notifying consumers of the sale of catfish or catfish products having a United States country of origin shall be approved, as indicated by a stamp or seal, by the department. Any liability arising from failure to disclose country of origin shall remain with the wholesaler, retailer, or food service establishment.

F. Any distributor or wholesaler engaged in the business of supplying catfish, catfish products, siluriformes, or siluriforme products to a retailer or food service establishment shall provide information to the retailer or food service establishment indicating the country of origin of the catfish or siluriformes or the...
country of origin of the catfish or siluriformes used in making the catfish product or
siluriforme product. The information shall include certification of origin through a
state or federal agency that regulates the processing of catfish, catfish products,
siluriformes, or siluriforme products or through a federal agency that verifies catfish,
catfish products, siluriformes, or siluriforme products produced in countries other
than the United States that meet similar sanitation requirements.

G.(1) Advertising of any catfish, catfish product, siluriformes, or siluriforme
products shall notify consumers of the country of origin of the catfish, catfish
products, siluriformes, or siluriforme products.

(2) The term "catfish" shall not be used as a common name or used to
advertise, distribute, or label any other fish or fish product except for those species
defined as catfish in R.S. 3:4713(1) or catfish product in R.S. 3:4713(2).

(3) It is unlawful to use the term "catfish" in the advertising, distributing,
labeling, or selling of any of those species within the family of Siluridae, Claridae,
and Pangasiidae or any other fish not defined as catfish in R.S. 3:4713(1) or catfish
product in R.S. 3:4713(2).

(4) The department and the Louisiana Restaurant Association shall employ
a marketing campaign that places an emphasis on highlighting the benefits of
patronizing Louisiana restaurants and eating domestic catfish.

H. The commissioner shall regulate and inspect retail and food service
establishments and shall have authority to enter the premises of any wholesaler,
processor, distributor, retailer, or any other person selling catfish, catfish products,
siluriformes, or siluriforme products in order to determine compliance with this
Subpart; however, the commissioner shall only inspect restaurants to determine
compliance with this Subpart when the department receives a complaint. In addition,
any wholesaler or distributor shall provide his sales and purchases records of catfish,
catfish products, siluriformes, or siluriforme products upon request by the
commissioner.

I. This Subpart shall not apply to catfish or catfish products exported out of
the United States.
§4715. Penalties

A. The commissioner shall notify, in writing, any retailer or food service establishment in violation of this Subpart and shall give the retailer or food service establishment three days to correct the violation. No penalties shall apply to any retailer or food service establishment that corrects the violation within three days from the date of notification by the commissioner.

B. In addition to any other civil or criminal penalties, any person who violates any of the provisions of this Subpart or who otherwise misrepresents as catfish any other fish or other fish product not defined as catfish in R.S. 3:4713(1) or as catfish product in R.S. 3:4713(2) shall be punished by a fine of not more than one thousand dollars. For a second offense, a person shall be punished by a fine of not more than two thousand dollars. For any subsequent violations, a person shall be punished by a fine of not more than five thousand dollars or by having the license for the retail or food establishment suspended indefinitely or until such establishment has corrected the violation, or both. Any retailer offering catfish or catfish products for sale that are found to be designated incorrectly as to the country of origin or the method of production shall not be held liable by reason of the conduct of another if the retailer proves they had no knowledge of the violation.

C. Any person against whom a complaint is made or who has been made subject to a fine or license suspension as provided by this Section may avail themselves of a due process administrative hearing.

D. Any owner or manager of a restaurant who is found guilty of a violation of this Section shall, upon a first offense, be fined one hundred dollars; upon a second offense, be fined two hundred fifty dollars and upon a third or subsequent offense, be fined one thousand dollars.

§4716. Testing

The commissioner shall have authority to enter the premises of any wholesaler, distributor, or retailer to pull samples of catfish, catfish products, siluriformes, or siluriforme products for laboratory testing to test for species.
identification or any other testing as may be necessary to determine compliance with
this Subpart.

§4717. Rules and Regulations

The commissioner shall promulgate rules and regulations for the
administration and enforcement of this Subpart.

§4718. Cooperative endeavor agreement

The Department of Health and Hospitals and the Department of Agriculture
and Forestry shall enter into a written cooperative endeavor agreement authorizing
the Department of Agriculture and Forestry to perform inspections in order to
determine compliance with this Subpart.

Section 2. The implementation of this Act shall be contingent upon the availability
of funds appropriated or otherwise made available.

Section 3. This Act shall become effective on November 1, 2009.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________