

ACT No. 300

HOUSE BILL NO. 652 (Substitute for House Bill No. 550 by Representative Kerner)

BY REPRESENTATIVE KERNER AND SENATORS ABRAHAM, BARROW, BOUDREAUX, CARTER, CONNICK, EDMONDS, FESI, HENRY, JACKSON-ANDREWS, MCMATH, MIZELL, MYERS, OWEN, SELTERS, WHEAT, AND WOMACK

1 AN ACT

2 To amend and reenact R.S. 40:5.5.2(B)(2), 5.5.3(A), (B)(introductory paragraph), and (H),
3 5.10.1(B), and 31.35(C), to enact Part IV of Chapter 30 of Title 3 of the Louisiana
4 Revised Statutes of 1950, to be comprised of R.S. 3:4749 through 4749.3, and R.S.
5 36:624(C) and 629(L)(5), and to repeal R.S. 36:204(A)(10) and 209(D)(4),
6 R.S.40:31.35.1, and Section 2 of Act No. 667 of the 2024 Regular Session of the
7 Legislature, relative to commercial seafood; to transfer authority for imported
8 seafood sampling, testing, and enforcement from the Department of Culture,
9 Recreation and Tourism to the Department of Agriculture and Forestry; to transfer
10 the Seafood Safety Task Force to the Department of Agriculture and Forestry; to
11 provide for the powers of the commissioner of agriculture and forestry; to provide
12 for penalties; to provide for reporting by processors and distributors to the
13 Department of Agriculture and Forestry; to remove the authority of the Department
14 of Culture, Recreation and Tourism and the Department of Agriculture and Forestry
15 to promulgate rules; to provide an effective date; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 40:5.5.2(B)(2), 5.5.3(A), (B)(introductory paragraph), and (H),
18 5.10.1(B), and 31.35(C) are hereby amended and reenacted to read as follows:

19 §5.5.2. Seafood safety

20 * * *

21 B.

22 * * *

(2) The state health officer, in consultation with the ~~Seafood Safety Task Force~~ Department of Agriculture and Forestry, office of the lieutenant governor, the Louisiana Seafood Promotion and Marketing Board, and the Louisiana Restaurant Association shall employ a marketing campaign that places an emphasis on highlighting the benefits of eating domestic seafood.

* * *

§5.5.3. Seafood Safety Task Force; creation; purpose

A. Within the Department of ~~Culture, Recreation and Tourism~~ Agriculture and Forestry there is hereby created the Seafood Safety Task Force, hereafter referred to as "task force". The task force shall serve as the state panel of experts focused on ensuring the safety of seafood processed, distributed, purchased, and consumed in Louisiana and the education and awareness of consumers regarding the health risks associated with imported seafood, as well as making recommendations on the utilization of monies in the Imported Seafood Safety Fund to test imported seafood.

B. The task force shall be charged with making recommendations to the commissioner of agriculture and forestry on all of the following:

* * *

H. The Department of ~~Culture, Recreation and Tourism~~ Agriculture and Forestry shall promulgate any rules necessary, in accordance with the Administrative Procedure Act, for implementation of the provisions of this Section.

* * *

§5.10.1. Imported Seafood Safety Fund

* * *

B. The monies in the fund shall be appropriated to the Department of ~~Culture, Recreation and Tourism~~ Agriculture and Forestry and expended solely for the purpose of enforcing the provisions of R.S. ~~40:31-35.1~~ 3:4749 et seq.

* * *

§31.35. Commercial seafood permit fee

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C. In addition to the fee provided for in Subsection A of this Section, the Louisiana Department of ~~Culture, Recreation and Tourism~~ Agriculture and Forestry shall charge and collect an annual imported seafood safety fee from each holder of a commercial seafood permit who processes or distributes imported seafood. The fee shall be three hundred dollars for the 2025 calendar year, five hundred dollars for the 2026 calendar year, seven hundred fifty dollars for the 2027 calendar year, and one thousand dollars for the 2028 calendar year and each calendar year thereafter. The proceeds of such fee shall be deposited into the Imported Seafood Safety Fund. Section 2. Part IV of Chapter 30 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:4749 through 4749.3, is hereby enacted to read as follows:

PART IV. IMPORTED SEAFOOD SAFETY

§4749. Definitions

As used in this Part:

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

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

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

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

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

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

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

1 §4749.1. Powers

2 A. The commissioner of agriculture shall administer and enforce the
3 provisions of this Part and may adopt rules and regulations for this purpose. All
4 rules and regulations shall be adopted in accordance with the provisions of the
5 Administrative Procedure Act.

6 B. The commissioner may:

7 (1) Employ personnel to enforce the provisions of this Part.

8 (2) Receive and investigate complaints regarding alleged violations of this
9 Part and the rules and regulations adopted pursuant to the provisions of this Part.

10 (3) Seek and obtain injunctive or other civil relief to restrain and prevent
11 violations of this Part, rules and regulations adopted pursuant to this Part, or orders
12 and rulings issued by the commissioner pursuant to this Part.

13 (4) Institute civil proceedings to enforce his rulings or collect any penalties
14 due under this Part.

15 (5) Issue a notice of noncompliance.

16 (6)(a) Issue a stop order prohibiting the continued distribution and sale of the
17 seafood product.

18 (b) Any violation of a stop order shall constitute a separate violation subject
19 to a penalty not to exceed one thousand dollars for each day of violations.

20 (c) A stop order may be released by the commissioner upon a determination
21 by the commissioner that the cause for issuing the stop order has been remedied.

22 (d) Any person aggrieved by a stop order may petition the commissioner for
23 a hearing to contest the validity of the stop order by making a written request within
24 five calendar days after issuance of the stop order. The hearing shall be held within
25 ten calendar days of receipt of the written request for a hearing. The commissioner
26 may appoint a hearing officer to preside over the matter. The commissioner shall
27 issue a ruling in the matter. The hearing and any subsequent appeal shall be held in
28 accordance with the provisions of the Administrative Procedure Act.

29 (e) Based upon the results of the hearing, the commissioner may take one or
30 more of the following actions:

1 (i) Release the stop order.

2 (ii) Require the cause for the stop order to be remedied prior to releasing the
3 stop order.

4 (iii) Amend the stop order.

5 §4749.2. Imported seafood; testing; penalties

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

11 B. Upon request of the department, the processor or distributor shall:

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

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

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

20 C.(1) The department may sample, analyze, and test seafood processed or
21 sold by an imported commercial seafood processor or distributor to ensure the
22 chemical concentrations do not exceed the minimum standards established by the
23 United States Food and Drug 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 processor
26 or distributor. The Louisiana Department of Health shall consider any seafood
27 reported pursuant to this Subsection to be an adulterated food pursuant to R.S.
28 40:607.

1 (3) In addition to reporting the test results to the Louisiana Department of
2 Health, the department may issue a civil penalty of not more than one thousand
3 dollars for violations of this Subsection.

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

9 (1) For a first offense, a fine of not more than fifteen thousand dollars per
10 violation.

11 (2) For a second offense, a fine of not more than twenty-five thousand
12 dollars per violation.

13 (3) For a third or subsequent offense, a fine of not more than fifty thousand
14 dollars per violation.

15 E.(1) Civil penalties may be assessed only by a ruling of the commissioner
16 based upon an adjudicatory hearing held by the Louisiana Commission of Weights
17 and Measures pursuant to R.S. 3:4605.

18 (2) In addition to civil penalties, the commissioner may assess the
19 proportionate costs of the adjudicatory hearing against the offender. The
20 commissioner shall determine the amount of costs to be assessed.

21 (3) The commissioner may institute civil proceedings to enforce his rulings
22 in the district court for the parish in which the violation occurred.

23 (4) The commissioner may institute civil proceedings seeking injunctive
24 relief to restrain and prevent the violation of the provisions of this Part, or of the
25 rules and regulations adopted under the provisions of this Part, in the district court
26 for the parish in which the violation occurred.

27 F. Any civil penalties collected pursuant to this Section shall be deposited
28 into the Weights and Measures Fund provided for in R.S. 3:4622.

1 §4749.3. Processors and distributors; reporting

2 A. Commercial processors and distributors of imported and commingled
3 seafood shall submit a quarterly report to the Department of Agriculture and Forestry
4 that contains the amount of seafood they bought and sold in the previous quarter. An
5 accounting by volume of the species of seafood bought and sold and the country of
6 origin, or when possible, the state of origin for domestic seafood bought and sold,
7 shall be included in the report. The department may also request additional
8 information regarding the product or form in which the seafood was bought and sold
9 and relevant dates or other tracking data. The department shall maintain a database
10 of the information contained in these reports.

11 B. The department shall have the authority to implement fines similar to
12 those provided for in R.S. 3:4749.2 for imported and commingled seafood processors
13 and distributors who fail to submit the required information for two or more
14 consecutive quarters.

15 Section 3. R.S. 36:624(C) and 629(L)(5) are hereby enacted to read as follows:

16 §624. Powers and duties of commissioner of agriculture and forestry

17 * * *

18 C. The commissioner of agriculture shall have the authority to administer a
19 seafood program that includes the promotion and marketing of Louisiana seafood in
20 coordination with the Louisiana Seafood Promotion and Marketing Board and
21 regulating imported seafood to ensure health and safety, including the administration
22 of any funds allocated or appropriated for the specific purposes of the program.

23 * * *

24 §629. Transfer of boards, commissions, departments, and agencies to the
25 Department of Agriculture and Forestry

26 * * *

27 L. The following agencies are transferred to the Department of Agriculture
28 and Forestry and shall perform and exercise their powers, duties, functions, and
29 responsibilities as provided by law:

30 * * *

1 (5) The Seafood Safety Task Force (R.S. 40:5.5.3).

2 * *

3 Section 4. R.S. 36:204(A)(10) and 209(D)(4), R.S. 40:31.35.1, and Section 2 of Act
4 No. 667 of the 2024 Regular Session of Legislature are hereby repealed.

Section 5. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____