

HB66 ENGROSSED



1 HB66
2 FTMNDDC-2
3 By Representative Brown
4 RFD: Ports, Waterways & Intermodal Transit
5 First Read: 06-Feb-24
6 PFD: 30-Jan-24



HB66 Engrossed

A BILL

TO BE ENTITLED

AN ACT

Relating to seafood products; to amend Sections 22-20A-2, 22-20A-3, 22-20A-4, and 22-20A-8, Code of Alabama 1975, to require certain food service establishments to notify consumers of the country of origin or importation status of seafood products offered for sale; to require these food service establishments to differentiate between farmed-raised fish and shrimp and wild fish and shrimp; to further provide for the State Department of Public Health to assess civil penalties for violations; and to add Section 22-20A-9 to the Code of Alabama 1975, to provide certain persons and actions to which these requirements do not apply.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 22-20A-2, 22-20A-3, 22-20A-4, and 22-20A-8, Code of Alabama 1975, are amended to read as follows:

"§22-20A-2

For the purposes of this article, the following terms ~~shall~~ have the following meanings, unless the context clearly requires a different meaning:

(1) BOARD. The State Board of Health as defined in



HB66 Engrossed

Section ~~22-2-3~~ 22-2-1.

~~(2) DOMESTIC. Any farm-raised fish or wild fish hatched, raised, harvested, or processed within the United States or a territory of the United States.~~

(2) COUNTRY OF ORIGIN. The country in which an animal, from which a covered commodity is derived, is born, raised, or slaughtered. If the animal is born, raised, or slaughtered in different countries, the term includes each country.

(3) COVERED COMMODITY.

a. Includes all of the following:

1. Farmed-raised fish.

2. Wild fish.

b. The term does not include an item described in this subdivision if the item is an ingredient in processed food.

(4) DEPARTMENT. The Alabama Department of Public Health.

~~(3) (5) FARM-RAISED FISH. Includes farm-raised shellfish and fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish and includes any product of which farm-raised fish is an ingredient.~~

~~(4) (6) FOOD SERVICE ESTABLISHMENT. Any place, vehicle, or vessel where food for individual portion service is prepared, stored, held, transported, served, or dispensed to consumers and which is regulated by the department. and includes~~ The term includes any such place regardless of whether ~~consumption~~ the food sold is intended for on ~~premises~~ or off-premises ~~and which is regulated by the Alabama Department of Public Health consumption. Hospitals, as defined~~



HB66 Engrossed

~~in Section 22-21-20, shall be excluded from the requirements of this article.~~

~~(5) IMPORTED. Any farm-raised fish or wild fish that was hatched, raised, harvested, or processed outside the United States or a territory of the United States.~~

(7) PROCESSED FOOD. A food product derived from the combination of a covered commodity with one or more other agricultural commodity so as to render the covered commodity inseparable or indistinguishable from the other agricultural commodity or commodities.

~~(6) (8) SHELLFISH. Includes crab, lobster, oyster, shrimp, crayfish, clam, and scallops in the wild and any farm-raised shellfish and includes any product of which shellfish is an ingredient.~~

~~(7) (9) STATE HEALTH OFFICER. The State Health Officer as defined in Section 22-2-8, or his or her designated representative.~~

~~(8) (10) VERIFIED COMPLAINT. An allegation of noncompliance with the provisions of this article that can be attributed to the complainant and which is signed and verified by the complainant.~~

~~(9) (11) WILD FISH. Naturally born or hatchery-raised fish and shellfish harvested in the wild. The term includes a fillet, steak, nugget, fillets, steaks, nuggets, and any other flesh from wild fish or shellfish and also includes any product of which wild fish is an ingredient. Net-pen~~ The term does not include net-pen ~~aquacultural or other farm-raised fish are excluded from the definition or shellfish."~~



HB66 Engrossed

"§22-20A-3

(a) Any ~~person~~ individual or entity who supplies ~~farm-raised fish or wild fish~~ a covered commodity to a food service establishment shall provide ~~information of~~ the country of origin of the ~~product~~ covered commodity to the food service establishment ~~as required by federal law. The State Health Officer, upon verified complaint and in compliance with all applicable state and federal law, shall investigate any and all reports of noncompliance with this subsection. Upon receipt of the verified complaint, a copy of the complaint shall be given to the food service establishment.~~

~~(b) If farm-raised fish or wild fish is supplied to a food service establishment and the fish or fish product is not required to be labeled with the country of origin pursuant to the requirements of federal law, the supplier of the fish or fish product or the food service establishment shall not be required to provide any additional information to comply with this article.~~

~~(c) A food service establishment serving farm-raised fish or wild fish shall place a disclaimer or notice on the menu or on a placard not smaller than 8 and one half inches by 11 inches in close proximity to the food establishment permit, in a conspicuous place specifically stating the following: "Under Alabama law, the consumer has the right to know, upon request to the food service establishment, the country of origin of farm-raised fish or wild fish." The disclaimer or notice listed on a menu shall be listed in print as large as the listing of the product.~~



HB66 Engrossed

~~(d) For purposes of this section, the United States is the country of origin for farm-raised fish hatched, raised, harvested, and processed in the United States and wild fish that were harvested in waters of the United States, a territory of the United States, or a state and processed in the United States, a territory of the United States, or a state, including the waters thereof.~~

(b) A food service establishment, including an in-store deli, selling or providing a covered commodity that originated outside of the United States for primarily off-premises preparation shall provide the country of origin of the covered commodity, or denote that the covered commodity is imported, in letters no smaller than the same size, font, and shade as the covered commodity being offered is listed, by means of a label, stamp, mark, placard, or other visible sign on the package, display, holding unit, or bin containing the covered commodity at the final point of sale or by posting a sign stating such that measures not less than eight and one half inches wide by 11 inches tall and is placed not less than 36 inches from the floor located in a conspicuous location where the covered commodity is held for offer using English letters not less than one inch in size.

(c) (1) A food service establishment that primarily prepares a covered commodity that originated outside of the United States on-premises, which it sells or provides using a menu as a standard business practice, shall display on all menus the country of origin of the covered commodity, or denote that the covered commodity is imported, in letters no



HB66 Engrossed

141 smaller than the same size, font, and shade as the covered
142 commodity being offered is listed, immediately adjacent to the
143 menu listing of the covered commodity being offered. In lieu
144 of this requirement, the notice may be paper-clipped to the
145 menu, with the same location, size, font, and shade
146 restrictions required when the notice is listed directly on
147 the menu or may be posted as a sign stating such that measures
148 not less than eight and one half inches wide by 11 inches tall
149 and is placed not less than 36 inches from the floor located
150 in a conspicuous location where the covered commodity is held
151 for offer using English letters not less than one inch in
152 size.

153 (2) A food service establishment that primarily
154 prepares a covered commodity that originated outside of the
155 United States on-premises and that does not use a menu as a
156 standard business practice shall display on a sign posted at
157 the main entrance to the establishment stating that certain
158 covered commodities, as applicable, being offered by the
159 establishment are imported. Each sign shall be not less than
160 eight and one half inches wide by 11 inches tall and shall be
161 written in the English language in letters not less than one
162 inch in size. The sign shall be placed in an open area and in
163 a conspicuous position not less than 36 inches from the floor
164 so that it is visible to all patrons.

165 (d) (1) A food service establishment offering
166 farm-raised fish or wild fish shall differentiate between
167 farm-raised fish and wild fish by stating such in the same
168 manner as is required by subsection (b) or (c).



HB66 Engrossed

(2) The terms "farmed-raised fish" and "wild fish" as used in this subsection mean fish and shrimp only. The term does not include crab, lobster, oyster, crayfish, clam, or scallops.

(e) The State Health Officer, upon verified complaint and in compliance with all applicable state and federal laws, shall investigate any and all reports of noncompliance with this section. Upon receipt of the verified complaint, a copy of the complaint shall be given to the retail food establishment or food service establishment."

"§22-20A-4

Any covered commodity with the United States as its country of origin may have ~~labeling requirements as to farm-raised fish and wild fish offered for direct retail sale for human consumption by a food service establishment may comply with this article by stating the country of origin in lieu of the disclaimer or notice; except, that~~ the appropriate state name, ~~or~~ USA, or United States of America, including a trade name or trademark, ~~may be inserted~~ listed in lieu thereof to accommodate ~~similar~~ products produced in any of the states or a territory of the United States of America."

"§22-20A-8

(a) Any food service establishment ~~violating that~~ violates this article or the rules ~~promulgated~~ adopted thereunder, after notice and a hearing, shall be subject to civil penalties. The State Health Officer shall impose these penalties on a graduated scale in accordance with the following schedule for all violations within a 24-month



HB66 Engrossed

period:

(1) ~~First~~ For a first offense ~~, a Written~~ written warning.

(2) ~~Second~~ For a second offense ~~, a fine of One~~ one hundred dollars (\$100).

(3) ~~Third~~ For a third offense ~~, a fine of Two~~ two hundred fifty dollars (\$250).

(4) ~~Fourth~~ For a fourth offense ~~, a fine of Five~~ five hundred dollars (\$500).

(5) ~~Fifth~~ For a fifth and any subsequent offense ~~, a fine of One~~ one thousand dollars (\$1,000).

(b) Any food service establishment ~~which~~ that unknowingly violates this article due to a good faith reliance upon the establishment's supplier's attestation of the covered commodity's country of origin shall be held harmless against penalties from ~~failure to disclose country of origin of any product which was mislabeled by the wholesaler or distributor~~ a violation of this article.

(c) A food service establishment may appeal any penalty assessed pursuant to this section in accordance with the Alabama Administrative Procedure Act. Judicial review of a final action of the department shall be pursuant to Section 41-22-20.

(d) All fines and other monies collected pursuant to this section shall be distributed to the department and used to implement, enforce, and administer this article.

(e) The State Health Officer or Attorney General may file an action to collect any unpaid penalty levied pursuant



HB66 Engrossed

225 to this section in a court of competent jurisdiction. The
226 defendant establishment shall be liable for all costs
227 associated with the collection of any unpaid penalty."

228 Section 2. Section 22-20A-9 is added to the Code of
229 Alabama 1975, to read as follows:

230 §22-20A-9

231 The requirements of this article shall not apply to
232 either of the following:

233 (1) Any retailer required to inform consumers of the
234 country of origin of a covered commodity as provided in 7
235 U.S.C. §§ 1638 through 1638d, inclusive.

236 (2) A hospital as defined in Section 22-21-20.

237 (3) A group of 10 or more people that preorder their
238 food items.

239 Section 3. This act shall become effective on October
240 1, 2024.



HB66 Engrossed

House of Representatives

Read for the first time and referred06-Feb-24
to the House of Representatives
committee on Ports, Waterways &
Intermodal Transit

Read for the second time and placed21-Feb-24
on the calendar:
0 amendments

Read for the third time and passed29-Feb-24
as amended
Yeas 101
Nays 0
Abstains 1

John Treadwell
Clerk