

1 HB659
2 118858-2
3 By Representative Collier
4 RFD: Agriculture and Forestry
5 First Read: 03-MAR-10

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8 SYNOPSIS: Under existing law, there is no requirement
9 for farm-raised fish and wild fish used for human
10 consumption to be labeled to show country of
11 origin.

12 This bill would require that farm-raised
13 fish and wild fish used for human consumption be
14 labeled to show country of origin.

15 This bill would provide criminal penalties
16 and civil fines for a violation.

17 This bill would repeal Act 2009-582 of the
18 2009 Regular Session (Acts 2009, p. 1715) now
19 appearing as Chapter 20A, Title 22, Code of Alabama
20 1975, consisting of Sections 22-20A-1 to 22-20A-8,
21 inclusive, and 22-20A-30 to 22-20A-32, inclusive,
22 relating to the consumer's right to know the source
23 or origin of a food product for human consumption.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To require that farm-raised fish and wild fish used
23 for human consumption be labeled to show country of origin; to
24 provide criminal penalties and civil fines for violations; to
25 repeal Act 2009-582 of the 2009 Regular Session (Acts 2009, p.
26 1715) now appearing as Chapter 20A, Title 22, Code of Alabama
27 1975, consisting of Sections 22-20A-1 to 22-20A-8, inclusive,

1 and 22-20A-30 to 22-20A-32, inclusive, relating to the
2 consumer's right to know the source or origin of a food
3 product for human consumption; and in connection therewith
4 would have as its purpose or effect the requirement of a new
5 or increased expenditure of local funds within the meaning of
6 Amendment 621 of the Constitution of Alabama of 1901, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. The Legislature hereby finds and declares
11 the consumer's right to know the source or origin of a food
12 product for human consumption is paramount and essential to
13 the health, safety, and well-being of the people of this state
14 and nation. There is a compelling state interest in public
15 safety to provide notice to the public of the country of
16 origin of farm-raised fish.

17 Section 2. For purposes of this act, the following
18 terms shall have the following meanings:

19 (1) FARM-RAISED FISH. Includes farm-raised shellfish
20 and fillets, steaks, nuggets, and any other flesh from a
21 farm-raised fish or shellfish.

22 (2) SHELLFISH. Includes crab, lobster, oysters,
23 shrimp, crayfish, clams, and scallops in the wild and any
24 farm-raised shellfish.

25 (3) WILD FISH. Naturally born or hatchery-raised
26 fish and shellfish harvested in the wild. The term includes a
27 fillet, steak, nugget, and any other flesh from wild fish or

1 shellfish. Net-pen aquacultural or other farm-raised fish are
2 excluded from the definition.

3 Section 3. (a) No farm-raised fish or wild fish
4 product shall be offered for direct retail sale for human
5 consumption by a processor, distributor, or retailer, food
6 service establishment, or other eating establishment unless
7 the farm-raised fish or wild fish product is specifically
8 labeled to inform consumers at the final point of sale of the
9 farm-raised fish or wild fish of the country of origin of the
10 farm-raised fish or wild fish.

11 (b) The notice of country of origin shall include
12 whether the product is farm-raised fish or wild fish.

13 (c) The notice of country of origin shall be
14 displayed in writing, printed or in a graphic manner, upon and
15 affixed to the container or wrapper. Eating establishments
16 shall display the name of the farm-raised fish or wild fish
17 product offered for sale upon the menu or other printed or
18 written information listing the product for sale to the public
19 for human consumption. The country of origin shall be in as
20 large print as the listing of the product.

21 (d) Farm-raised fish and wild fish whose country of
22 origin is the United States shall be labeled as follows:

23 (1) Farm-raised fish shall be labeled indicating
24 that the fish is hatched, raised, harvested, and processed in
25 the United States.

26 (2) Wild fish shall be labeled indicating that the
27 fish were harvested in waters of the United States, a

1 territory of the United States, or a state and processed in
2 the United States, a territory of the United States, or a
3 state, including the waters thereof.

4 Section 4. The State Health Officer shall promulgate
5 rules and regulations as may be necessary for the enforcement
6 of this act, such rules and regulations to be exempt from the
7 Administrative Procedure Act. The State Health Officer shall
8 fix reasonable fees to cover the cost of administrative and
9 enforcement services rendered pursuant to this act.

10 Section 5. The State Health Officer may cooperate
11 with and enter into agreements with governmental agencies of
12 this state, agencies of the federal government, and private
13 associations in order to carry out the purpose of this act.

14 Section 6. (a) It shall be the duty of each district
15 attorney to whom any violation under this act is reported to
16 cause appropriate proceedings to be instituted and prosecuted
17 in a court of competent jurisdiction without delay. Before the
18 State Health Officer reports a violation for prosecution, an
19 opportunity shall be given the distributor or other affected
20 person to present his or her view to the State Health Officer.

21 (b) The State Health Officer may apply for and the
22 court may grant a temporary restraining order or permanent
23 injunction restraining any person from violating or continuing
24 to violate any of the provisions of this act or any rule or
25 regulation promulgated under this act, notwithstanding the
26 existence of other remedies at law. The injunction shall be
27 issued without bond.

1 (c) Nothing in this act shall be construed as
2 requiring the State Health Officer to report for prosecution
3 or for the institution of injunctive proceedings minor
4 violations of this act wherever he or she believes that the
5 public interest will be adequately served by a suitable
6 written notice of warning.

7 Section 7. Any farm-raised fish or wild fish sold in
8 violation of this act shall be subject to suspension from sale
9 or seizure and condemnation pursuant to Article 2, commencing
10 with Section 2-2-30, Chapter 2, Title 2, Code of Alabama 1975.

11 Section 8. Any person who violates this act, upon
12 conviction, shall be subject to a civil fine of not more than
13 two thousand dollars (\$2,000). The net proceeds of any fine
14 assessed shall be transferred to the Department of Public
15 Health.

16 Section 9. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official ReCompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 10. Act 2009-582 of the 2009 Regular Session
25 (Acts 2009, p. 1715) now appearing as Chapter 20A, Title 22,
26 Code of Alabama 1975, consisting of Sections 22-20A-1 to
27 22-20A-8, inclusive, and 22-20A-30 to 22-20A-32, inclusive,

1 relating to the consumer's right to know the source or origin
2 of a food product for human consumption, is repealed.

3 Section 11. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.