

SB90 INTRODUCED



1 SB90
2 2QBQKIS-1
3 By Senators Sessions, Singleton
4 RFD: Agriculture, Conservation, and Forestry
5 First Read: 13-Feb-24



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SYNOPSIS:

Under existing law, food service establishments are not required to provide the country of origin of certain food products they provide to consumers.

This bill would require food service establishments to notify consumers of the country of origin of seafood products they offer for sale or advertise.

This bill would require food service establishments to use the correct common name of seafood products they offer for sale or advertise.

This bill would require food service establishments to notify consumers as to whether fish or shrimp offered for sale or advertised are farm-raised or wild.

This bill would further provide for the State Department of Public Health to impose civil penalties on food service establishments for the failure to comply with these requirements.

A BILL
TO BE ENTITLED
AN ACT



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29 Relating to seafood products; to amend Sections
30 22-20A-2, 22-20A-3, 22-20A-4, and 22-20A-8, Code of Alabama
31 1975, to require food service establishments to notify
32 consumers of the country of origin of seafood products; to
33 require food service establishments to identify seafood
34 products sold or advertised using their correct common name;
35 to require food service establishments to differentiate
36 between farmed-raised fish and shrimp and wild fish and
37 shrimp; and to further provide for the State Department of
38 Public Health to assess civil penalties for violations.

39 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

40 Section 1. Sections 22-20A-2, 22-20A-3, 22-20A-4, and
41 22-20A-8, Code of Alabama 1975, are amended to read as
42 follows:

43 "§22-20A-2

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

47 (1) BOARD. The State Board of Health as defined in
48 Section ~~22-2-3~~ 22-2-1.

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

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

56 (3) COVERED COMMODITY.



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57 a. Includes all of the following:
58 1. Farmed-raised fish.
59 2. Wild fish.
60 b. The term does not include an item described in this
61 subdivision if the item is an ingredient in processed food.

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

64 ~~(3) (5) FARM-RAISED FISH. Includes farm-raised~~
65 ~~shellfish and fillets, steaks, nuggets, and any other flesh~~
66 ~~from a farm-raised fish or shellfish and includes any product~~
67 ~~of which farm-raised fish is an ingredient.~~

68 ~~(4) (6) FOOD SERVICE ESTABLISHMENT. Any place, vehicle,~~
69 ~~or vessel where food for individual portion service is~~
70 ~~prepared, stored, held, transported, served, or dispensed to~~
71 ~~consumers and which is regulated by the department. and~~
72 ~~includes The term includes any such place regardless of~~
73 ~~whether consumption the food sold is intended for on-premises~~
74 ~~or off-premises and which is regulated by the Alabama~~
75 ~~Department of Public Health consumption. Hospitals, as defined~~
76 ~~in Section 22-21-20, shall be excluded from the requirements~~
77 ~~of this article.~~

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

81 ~~(6) (7) SHELLFISH. Includes crab, lobster, oyster,~~
82 ~~shrimp, crayfish, clam, and scallops in the wild and any~~
83 ~~farm-raised shellfish and includes any product of which~~
84 ~~shellfish is an ingredient.~~



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85 ~~(7)~~ (8) STATE HEALTH OFFICER. The State Health Officer
86 as defined in Section 22-2-8, or his or her designated
87 representative.

88 ~~(8)~~ (9) VERIFIED COMPLAINT. An allegation of
89 noncompliance with ~~the provisions of~~ this article that can be
90 attributed to the complainant and which is signed and verified
91 by the complainant.

92 ~~(9)~~ (10) WILD FISH. Naturally born or hatchery-raised
93 fish and shellfish harvested in the wild. The term includes ~~a~~
94 ~~fillet, steak, nugget,~~ fillets, steaks, nuggets, and any other
95 flesh from wild fish or shellfish ~~and also includes any~~
96 ~~product of which wild fish is an ingredient. Net-pen~~ The term
97 does not include net-pen aquacultural or other farm-raised
98 fish ~~are excluded from the definition or shellfish."~~

99 "§22-20A-3

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

110 ~~(b) If farm-raised fish or wild fish is supplied to a~~
111 ~~food service establishment and the fish or fish product is not~~
112 ~~required to be labeled with the country of origin pursuant to~~



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113 ~~the requirements of federal law, the supplier of the fish or~~
114 ~~fish product or the food service establishment shall not be~~
115 ~~required to provide any additional information to comply with~~
116 ~~this article.~~

117 ~~(c) A food service establishment serving farm-raised~~
118 ~~fish or wild fish shall place a disclaimer or notice on the~~
119 ~~menu or on a placard not smaller than 8 and one half inches by~~
120 ~~11 inches in close proximity to the food establishment permit,~~
121 ~~in a conspicuous place specifically stating the following:~~
122 ~~"Under Alabama law, the consumer has the right to know, upon~~
123 ~~request to the food service establishment, the country of~~
124 ~~origin of farm-raised fish or wild fish." The disclaimer or~~
125 ~~notice listed on a menu shall be listed in print as large as~~
126 ~~the listing of the product.~~

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

134 (b) A food service establishment selling a covered
135 commodity to consumers for primarily off-premises consumption
136 shall provide the country of origin of the covered commodity
137 to consumers by means of a label, stamp, mark, placard, or
138 other visible sign on the package, display, holding unit, or
139 bin containing the covered commodity at the final point of
140 sale. The country of origin shall be provided using the same



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141 size font as the covered commodity is listed, but not using
142 letters measuring less than one-half inch.

143 (c) A food service establishment selling a covered
144 commodity to consumers for primarily on-premises consumption
145 shall provide the country of origin of the covered commodity
146 to consumers by either of the following methods:

147 (1) A disclaimer or notice located on the menu in the
148 same location as and in the same size font, but not using
149 letters measuring less than one-half inch in size, as the
150 listed covered commodity.

151 (2) A placard posted on a wall in a conspicuous
152 location that is in plain view of all patrons and is not
153 smaller than eight and one-half inches by 11 inches, but not
154 using letters measuring less than one inch in size.

155 (d) An advertisement of a covered commodity by a food
156 service establishment shall state the covered commodity's
157 country of origin in the same location and in the same size
158 font, but not using letters measuring less than one-half inch
159 in size, as the advertised covered commodity.

160 (e) A food service establishment selling or advertising
161 a covered commodity shall identify the covered commodity using
162 its common name as defined by rule of the department. If no
163 common name is defined by rule of the department, the common
164 name is the acceptable market name or common name as provided
165 in the United States Food and Drug Administration's
166 publication "The Seafood list--FDA Guide to Acceptable Market
167 Names for Seafood Sold in Interstate Commerce," as the
168 publication existed on October 1, 2024.



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169 (f) (1) A food service establishment selling or
170 advertising farm-raised fish or wild fish shall differentiate
171 between farm-raised fish and wild fish by stating such in the
172 same manner as is required for providing the country of origin
173 of the farm-raised fish or wild fish pursuant to this section.

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

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

184 "§22-20A-4

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

195 "§22-20A-8

196 (a) Any food service establishment ~~violating~~ that



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197 violates this article or the rules ~~promulgated~~ adopted
198 thereunder, after notice and a hearing, shall be subject to
199 civil penalties. The State Health Officer shall impose these
200 penalties on a graduated scale in accordance with the
201 following schedule for all violations within a 24-month
202 period:

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

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

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

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

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

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

220 (c) A food service establishment may appeal any penalty
221 assessed pursuant to this section in accordance with the
222 Alabama Administrative Procedure Act. Judicial review of a
223 final action of the department shall be pursuant to Section
224 41-22-20.



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

228 (e) The State Health Officer, Attorney General, or an
229 appropriate district attorney may file an action to collect
230 any unpaid penalty levied pursuant to this section in a court
231 of competent jurisdiction. The defendant establishment shall
232 be liable for all costs associated with the collection of any
233 unpaid penalty."

234 Section 2. This act shall become effective on October
235 1, 2024.