

108TH CONGRESS
1ST SESSION

S. 130

To amend the labeling requirements of the Dolphin Protection Consumer Information Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2003

Mrs. BOXER (for herself, Mr. BIDEN, Mr. HOLLINGS, Mr. KERRY, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the labeling requirements of the Dolphin Protection Consumer Information Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Truth in Tuna Label-
5 ing Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that:

8 (1) Consumers have the right to know whether
9 the tuna that they purchase was caught using tech-

1 nologies that kill, harass, adversely impact, or en-
2 danger dolphins, porpoises, and whales.

3 (2) The provisions of the Dolphin Protection
4 Consumer Information Act that require “dolphin
5 safe” labeling have served as an incentive to reduce
6 dolphin mortalities.

7 (3) According to the Annual Report of the Ma-
8 rine Mammal Commission and the Inter-American
9 Tropical Tuna Commission, dolphin mortality has
10 decreased from more than 100,000 dolphin kills each
11 year to fewer than 2,000 kills each year since the
12 passage of the “dolphin safe” label requirements in
13 1990.

14 (4) In 1997, Congress began to erode the “dol-
15 phin safe” label, creating exceptions that permit
16 purse seine netting in the Eastern Tropical Pacific
17 and other destructive fishing practices to be used
18 during tuna fishing. On December 31, 2002, the
19 Secretary of Commerce decided to permit tuna
20 caught using these destructive practices to be labeled
21 “dolphin safe”, a decision that will blatantly mislead
22 the American public. The Secretary’s decision will
23 result in an estimated 20,000 to 40,000 dolphin
24 deaths each year.

1 **SEC. 3. AMENDMENTS TO THE DOLPHIN PROTECTION CON-**
2 **SUMER INFORMATION ACT.**

3 The Dolphin Protection Consumer Information Act
4 (16 U.S.C. 1385) is amended—

5 (1) by striking subsections (d) through (h); and
6 (2) by inserting the following:

7 “(d) LABELING STANDARD.—It is a violation of sec-
8 tion 5 of the Federal Trade Commission Act (15 U.S.C.
9 45) for any producer, importer, exporter, distributor, or
10 seller of any tuna product that is exported from or offered
11 for sale in the United States to include on the label of
12 that product the term ‘Dolphin Safe’ or any other term
13 or symbol that claims or suggests that the tuna contained
14 in the product was harvested using a method of fishing
15 that is not harmful to dolphins if the tuna product con-
16 tains tuna harvested—

17 “(1) on the high seas by a vessel engaged in
18 driftnet fishing;

19 “(2) outside the eastern tropical Pacific Ocean
20 by a vessel using purse seine nets—

21 “(A) in a fishery in which the Secretary
22 has determined that a regular and significant
23 association occurs between dolphins and tuna
24 (similar to the association between dolphins and
25 tuna in the eastern tropical Pacific Ocean), un-
26 less such product is accompanied by a written

1 statement, executed by the captain of the vessel
2 and an observer participating in a national or
3 international program acceptable to the Sec-
4 retary, certifying that no purse seine net was
5 intentionally deployed on dolphins or used to
6 encircle dolphins and that no dolphins were in-
7 tentionally chased or harassed during the par-
8 ticular voyage on which the tuna were caught
9 and no dolphins were killed or seriously injured
10 in the sets in which the tuna were caught; or

11 “(B) in any other fishery (other than a
12 fishery described in paragraph (3)) unless the
13 product is accompanied by a written statement
14 executed by the captain of the vessel certifying
15 that no purse seine net was intentionally de-
16 ployed on or used to encircle dolphins during
17 the particular voyage on which the tuna was
18 harvested;

19 “(3) by a vessel in a fishery other than one de-
20 scribed in paragraph (1), (2) or (4) that is identified
21 by the Secretary as having a regular and significant
22 mortality or serious injury of dolphins, unless such
23 product is accompanied by a written statement exe-
24 cuted by the captain of the vessel and an observer
25 participating in a national or international program

1 acceptable to the Secretary that no dolphins were
2 killed or seriously injured in the sets or other gear
3 deployments in which the tuna were caught, pro-
4 vided that the Secretary determines that such an ob-
5 server statement is necessary; or

6 “(4) except as provided in subsection (e), in the
7 eastern tropical Pacific Ocean by a vessel using
8 purse seine nets.

9 “(e) SPECIAL REQUIREMENTS.—A tuna product that
10 contains tuna harvested in the eastern tropical Pacific
11 Ocean by a fishing vessel using purse seine nets may in-
12 clude on the label of that product the term ‘Dolphin Safe’
13 or other term or symbol that claims or suggests that the
14 tuna contained in the product was harvested using a meth-
15 od of fishing that is not harmful to dolphins if—

16 “(1) the vessel that harvested the tuna is of a
17 type and size that the Secretary has determined is
18 not capable of deploying its purse seine nets on dol-
19 phins or to encircle dolphins; or

20 “(2) the tuna product is accompanied by a writ-
21 ten statement—

22 “(A)(i) executed by the captain of the ves-
23 sel which harvested the tuna certifying that no
24 tuna were caught on the trip in which such
25 tuna were harvested using a purse seine net in-

1 tentionally deployed on dolphins or to encircle
2 dolphins, that no dolphins were intentionally
3 chased or harassed in connection with the trip,
4 and that no dolphins were killed or seriously in-
5 jured during the sets in which the tuna were
6 caught; or

7 “(ii) which states that an approved ob-
8 server was on board the vessel during the entire
9 trip in which such tuna were harvested and that
10 purse seine nets were not intentionally deployed
11 on dolphins or to encircle dolphins, that no dol-
12 phins were intentionally chased or harassed in
13 connection with the trip, and that no dolphins
14 were killed or seriously injured during the sets
15 in which the tuna were caught and that is exe-
16 cuted by—

17 “(I) the Secretary;

18 “(II) a representative of the Inter-
19 American Tropical Tuna Commission; or

20 “(III) an authorized representative of
21 a country that is a signatory to the Agree-
22 ment on the International Dolphin Con-
23 servation Program, done at Washington
24 May 21, 1998, whose observer program
25 has been approved by the Inter-American

1 Tropical Tuna Commission or the Sec-
2 retary; and

3 “(B) that is endorsed in writing by each
4 exporter, importer, and processor of the tuna
5 product.”.

6 **SEC. 4. EFFECTIVE DATE.**

7 The amendments made by section 3 shall take effect
8 on December 30, 2002.

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