

111TH CONGRESS
2D SESSION

S. 2934

To amend the Federal Food, Drug, and Cosmetic Act to ensure the safety of imported seafood.

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2010

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to ensure the safety of imported seafood.

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 “Imported Seafood
5 Safety Standards Act”.

6 **SEC. 2. ENSURING THE SAFETY OF IMPORTED SEAFOOD.**

7 (a) IN GENERAL.—Chapter VIII of the Federal
8 Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.)
9 is amended by adding at the end the following:

1 **“SEC. 805. SAFETY OF IMPORTED SEAFOOD.**

2 “(a) REQUIREMENT OF EQUIVALENCE.—

3 “(1) STANDARDS FOR EXPORTING COUNTRY.—

4 No seafood may be imported into the United States
5 from a foreign country unless the Secretary certifies
6 that the seafood imported from such country is
7 maintained through a program using reliable analyt-
8 ical methods to ensure compliance with the United
9 States standards for seafood manufacturing, proc-
10 essing, and holding.

11 “(2) INSPECTION OF EXPORTING FACILITIES.—

12 In accordance with the procedures described under
13 section 704, officers and employees duly designated
14 by the Secretary shall conduct not less than 1 in-
15 spection on an annual basis of each foreign facility
16 that exports seafood to the United States to ensure
17 that each such foreign facility maintains a program
18 using reliable analytical methods to ensure compli-
19 ance with the United States standards for seafood
20 manufacturing, processing, and holding. In addition
21 to such annual inspection, such officers and employ-
22 ees shall conduct periodic follow-up inspections of
23 such foreign facilities as determined necessary by
24 the Secretary.

25 “(b) MANDATORY TESTING.—

1 “(1) MINIMUM TESTING.—The Secretary shall
2 inspect and test not less than 20 percent of all sea-
3 food imported or offered for import into the United
4 States each year.

5 “(2) NEW EXPORTERS.—Notwithstanding any
6 other provision of this Act, the first 15 shipments of
7 seafood imported or offered for import into the
8 United States from an exporter shall be inspected
9 and tested by the Secretary.

10 “(3) FAILURE TO PASS INSPECTION.—

11 “(A) ONE FAILURE.—If a shipment of sea-
12 food imported or offered for import into the
13 United States by an exporter fails to meet an
14 inspection or test requirements, each subse-
15 quent shipment of seafood from such exporter
16 shall be inspected and tested by the Secretary,
17 until 15 consecutive shipments pass inspection
18 and testing.

19 “(B) MULTIPLE FAILURES.—

20 “(i) IN GENERAL.—If more than 3
21 shipments of seafood imported or offered
22 for import into the United States by an ex-
23 porter fail to meet inspection or tests re-
24 quirements during any 1-year period, no
25 shipments from such exporter may be im-

1 ported or offered for import into the
2 United States for the following 1-year pe-
3 riod. Following such 1-year period when no
4 shipments may be so imported or offered,
5 such exporter shall not be permitted to
6 offer imports to the United States unless
7 the Secretary certifies that such exporter is
8 maintaining a program using reliable ana-
9 lytical methods to ensure compliance with
10 the United States standards for seafood
11 manufacturing, processing, and holding.

12 “(ii) DETERMINATION BY SEC-
13 RETARY.—Shipments of seafood imported
14 or offered for import into the United
15 States by an exporter that has been sub-
16 ject to a 1-year suspension period and a
17 certification under clause (i) shall be in-
18 spected at a rate determined appropriate
19 by the Secretary for a period of time as de-
20 termined appropriate by the Secretary.

21 “(C) PATTERN OF FAILURES.—If the Sec-
22 retary determines that shipments of seafood im-
23 ported or offered for import into the United
24 States from a particular country repeatedly fail
25 to meet inspection or testing requirements, all

1 shipments of seafood from such country shall be
2 refused entry into the United States until the
3 Secretary makes a certification described under
4 subsection (a).

5 “(D) PROCEDURES.—The testing and in-
6 spections procedures used under this paragraph
7 shall be carried out in accordance with section
8 801.

9 “(4) FEES.—The Secretary shall by regulation
10 impose such fees on exporters in such amounts as
11 may be necessary to provide, equip, and maintain an
12 adequate and efficient inspection service to carry out
13 this subsection. Receipts from such fees shall be cov-
14 ered into the Treasury and shall be available to the
15 Secretary for expenditures incurred in carrying out
16 the purposes of this subsection, including expendi-
17 tures for salaries of additional inspectors when nec-
18 essary to supplement the number of inspectors for
19 whose salaries Congress has appropriated.

20 “(c) EFFECT OF SHIPMENTS THAT FAIL TO MEET
21 REQUIREMENTS.—

22 “(1) IN GENERAL.—Notwithstanding section
23 801, if a shipment of seafood imported or offered for
24 import into the United States fails to meet safety
25 standards established by the Secretary, such ship-

1 ment shall be detained or destroyed unless the im-
2 ported shipment meets criteria for re-export, as de-
3 termined by the Secretary.

4 “(2) LABELING.—If a shipment of seafood has
5 been refused admission under paragraph (1), other
6 than such a shipment that is required to be de-
7 stroyed, the Secretary shall require the owner or
8 consignee of the shipment to affix to the container
9 of the seafood a label that clearly and conspicuously
10 bears the statement: ‘UNITED STATES: RE-
11 FUSED ENTRY’.

12 “(3) EXPORTING TO FOREIGN COUNTRY.—If
13 the appropriate authority of a foreign country noti-
14 fies the Secretary, not later than 45 days after the
15 shipment is rejected under paragraph (1), that the
16 shipment will be accepted in that country, such ship-
17 ment may be released to the importer for expor-
18 tation to such foreign country.

19 “(4) DESTRUCTION OF SHIPMENT.—If the Sec-
20 retary deems that a shipment rejected under para-
21 graph (1), if it were to have been allowed entry,
22 could have caused significant health risks if con-
23 sumed by humans, the shipment shall be destroyed
24 notwithstanding the receipt of a notification under
25 paragraph (3).

1 “(5) NOTIFICATION TO PORTS OF ENTRY.—The
2 Secretary shall notify ports of entry not later than
3 5 days after a shipment described in paragraph
4 (1)—

5 “(A) was determined to fail to meet safety
6 standards established by the Secretary under
7 such paragraph; or

8 “(B) was detained or destroyed.

9 “(d) PORTS OF ENTRY.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of this chapter, seafood may be imported
12 or offered for import at only those ports of entry
13 into the United States that have the personnel
14 trained to conduct the applicable testing and inspec-
15 tion of seafood, as certified by the Secretary under
16 paragraph (2).

17 “(2) CERTIFICATION.—The Secretary shall cer-
18 tify which ports of entry into the United States have
19 the personnel trained to conduct the applicable test-
20 ing and inspection of seafood.

21 “(3) EFFECT OF CERTIFICATION REQUIRE-
22 MENT.—If a port of entry—

23 “(A) was, on the day before the date of en-
24 actment of this section, a port of entry that ac-

1 cepted seafood imported or offered for import
2 into the United States; and

3 “(B) does not meet the requirements for
4 certification under paragraph (2),

5 the Secretary shall, as soon as practicable after the
6 date of enactment of this section, provide proper
7 personnel levels and training to enable such port to
8 be certified under paragraph (2).

9 “(e) ANNUAL REPORT.—On an annual basis, the
10 Secretary shall submit to Congress a report that describes
11 the implementation of this section, including—

12 “(1) summary data relating to inspections and
13 testing under this section, and any noncompliance
14 with the applicable provisions of this Act; and

15 “(2) recommendations of any improvements or
16 other modifications to this section determined nec-
17 essary by the Secretary.

18 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated such sums as may be
20 necessary to carry out this section.”.

21 (b) PROHIBITED ACT; PENALTIES.—Chapter III of
22 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331
23 et seq.) is amended—

24 (1) in section 301, by adding at the end the fol-
25 lowing:

1 “(uu) The making of a knowingly false statement
 2 with respect to a test or inspection carried out under sec-
 3 tion 805, or knowingly misbranding any seafood imported
 4 under such section.”; and

5 (2) in section 303, by adding at the end the fol-
 6 lowing:

7 “(h)(1) Any person who violates section 301(uu) shall
 8 be subject to a civil penalty in an amount not to exceed
 9 \$250,000 for each such violation, and not to exceed
 10 \$1,100,000 for all such violations after the second convic-
 11 tion in any 3-year period.

12 “(2) Paragraphs (5), (6), and (7) of subsection (f)
 13 shall apply to a civil penalty assessment under this sub-
 14 section in the same manner as such paragraphs apply to
 15 a civil penalty assessment under subsection (f)(1).”.

16 **SEC. 3. COOPERATION WITH STATES TO CONDUCT INSPEC-**
 17 **TIONS.**

18 Chapter VIII of the Federal Food, Drug, and Cos-
 19 metic Act (21 U.S.C. 381 et seq.), as amended by section
 20 2, is further amended by adding at the end the following:

21 **“SEC. 805A. COOPERATION WITH STATES TO CONDUCT SEA-**
 22 **FOOD INSPECTIONS.**

23 “(a) ESTABLISHMENT OF COOPERATIVE INSPECTION
 24 PROGRAM.—The Secretary may establish a program
 25 under which a State may conduct inspection, testing, and

1 certification of seafood imported or offered for import into
2 the United States.

3 “(b) COMPONENTS OF PROGRAM.—Under the pro-
4 gram established under subsection (a)—

5 “(1) the Secretary shall—

6 “(A) provide training to State officials to
7 enable such officials to carry out inspection,
8 testing, and certification, in accordance with
9 Federal requirements and safety standards, of
10 seafood imported or offered for import into the
11 United States; and

12 “(B) certify such State officials as author-
13 ized agents of the Federal Government to carry
14 out such inspections, testing, and certification;
15 and

16 “(2) a State that receives a grant under sub-
17 section (c) shall—

18 “(A) comply with all requirements of the
19 Secretary with respect to the training and cer-
20 tification of State officials described under
21 paragraph (1);

22 “(B) inspect, test, and certify, in accord-
23 ance with Federal requirements and safety
24 standards, seafood imported or offered for im-
25 port into the United States; and

1 “(C) carry out any other activities as de-
2 termined necessary by the Secretary to ensure
3 the safety of seafood imported or offered for
4 import into the United States.

5 “(c) GRANTS.—

6 “(1) IN GENERAL.—The Secretary shall award
7 grants to States to carry out the cooperative seafood
8 inspection program established under subsection (a).

9 “(2) APPLICATION.—To be eligible to receive a
10 grant under paragraph (1), a State shall submit an
11 application to the Secretary at such time, in such
12 manner, and containing such information as the Sec-
13 retary may require.

14 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as may be
16 necessary to carry out this section.”.

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