

115TH CONGRESS
1ST SESSION

H. R. 3108

To strengthen Federal consumer protection and product traceability with respect to commercially marketed seafood, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2017

Mr. FARENTHOLD (for himself, Mr. PALAZZO, and Mr. LOWENTHAL) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Agriculture, Natural Resources, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To strengthen Federal consumer protection and product traceability with respect to commercially marketed seafood, 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 “Protecting Honest
5 Fishermen Act of 2017”.

6 **SEC. 2. SEAFOOD SAFETY.**

7 (a) COORDINATION.—

1 (1) NATIONAL SEA GRANT COLLEGE PRO-
2 GRAM.—The Administrator of the National Oceanic
3 and Atmospheric Administration shall ensure that
4 the Administration’s seafood inspection activities are
5 coordinated with the national sea grant college pro-
6 gram to provide outreach to the States, local health
7 agencies, consumers, and the seafood industry on
8 seafood safety.

9 (2) INSPECTING TO PREVENT SEAFOOD
10 FRAUD.—The Secretary of Commerce and the Sec-
11 retary of Health and Human Services shall, to the
12 maximum extent practicable, ensure that inspections
13 and tests for seafood safety also collect information
14 for seafood fraud detection and prevention.

15 (b) LIST OF OFFENDERS.—The Secretary of Health
16 and Human Services, in consultation with the Secretary
17 of Commerce, shall develop, maintain, and post on the
18 public website of the Department of Health and Human
19 Services a list that—

20 (1) includes, by country, each exporter whose
21 seafood is imported or offered for import into the
22 United States; and

23 (2) for each such exporter, tracks the timing,
24 type, and frequency of violations of Federal law re-
25 lating to seafood safety.

1 (c) IMPACT ON EXISTING FOOD SAFETY AUTHOR-
2 ITY.—Nothing in this section limits the authority of the
3 Secretary of Health and Human Services to execute or
4 enforce food safety laws, including the FDA Food Safety
5 Modernization Act (Public Law 111–353).

6 **SEC. 3. SEAFOOD IDENTIFICATION.**

7 (a) IN GENERAL.—Beginning not later than the end
8 of calendar year 2018, the Secretary of Commerce, in con-
9 sultation with the Secretaries of Health and Human Serv-
10 ices and Homeland Security, shall implement the following
11 requirements with respect to seafood imported into the
12 United States or otherwise distributed or offered for sale
13 in interstate commerce.

14 (1) TRACEABILITY.—In addition to disclosure
15 of the United Nations Food and Agriculture Organi-
16 zation Major Fishing Area, or a more specific loca-
17 tion, in which the fish was caught, and of the infor-
18 mation required to be submitted to the Secretary of
19 Commerce under section 303(a)(5) of the Magnu-
20 son-Stevens Fishery Conservation and Management
21 Act (16 U.S.C. 1853(a)(5)), at a minimum the fol-
22 lowing information shall be displayed on the pack-
23 aging of, or otherwise accompany, seafood through
24 processing, distribution, and final sale:

1 (A)(i) The acceptable market name (as de-
2 termined by the Food and Drug Administra-
3 tion) for the seafood species; and

4 (ii) the scientific name or the common
5 name for the seafood species.

6 (B) Whether the seafood was harvested
7 wild or was farm-raised.

8 (C) If the seafood was farm-raised, infor-
9 mation regarding the country of cultivation, the
10 location of the aquaculture production area, and
11 the method of cultivation.

12 (D) The method of harvest of the seafood
13 including gear type as listed in section 600.725
14 of title 50, Code of Federal Regulations, and
15 defined in section 600.10 of such title.

16 (E) The date of the catch.

17 (F) The weight or number, as appropriate,
18 of product for an individual fish or lot.

19 (2) OTHER LABELING REQUIREMENTS.—The
20 following information shall be included in the label-
21 ing of seafood through processing, distribution, and
22 final sale:

23 (A) Whether the seafood was previously
24 frozen.

1 (B) Whether the seafood was treated with
2 any substance (other than ice or water) that
3 may affect the true weight of the seafood.

4 (C) Whether the seafood was landed or
5 harvested in a country other than that in which
6 it was processed.

7 (3) EXCEPTION FOR PREVIOUSLY MISLABELED
8 SEAFOOD.—No importer, processor, distributor, or
9 retailer may be found to be in violation of the re-
10 quirements under this subsection for unknowingly
11 selling a product that was already mislabeled upon
12 receipt, provided that the importer, processor, dis-
13 tributor, or retailer can provide the required product
14 traceability documentation.

15 (4) ALTERNATIVE MEANS OF DISCLOSURE FOR
16 CERTAIN CATEGORIES OF INFORMATION.—

17 (A) IN GENERAL.—Notwithstanding para-
18 graphs (1) and (2), instead of including any
19 category of information described in subpara-
20 graph (B) in the packaging or labeling of sea-
21 food, an importer, processor, distributor, or re-
22 tailer (including a restaurant) may, with respect
23 to such category, choose to satisfy the require-
24 ments of this paragraph by making the infor-
25 mation available upon request to any Federal,

1 State, or local official authorized to conduct in-
2 spections of—

3 (i) seafood; or

4 (ii) any facility that processes or sells
5 seafood.

6 (B) CATEGORIES.—The categories of infor-
7 mation described in this subparagraph are—

8 (i) the information required to be sub-
9 mitted to the Secretary of Commerce
10 under section 303(a)(5) of the Magnuson-
11 Stevens Fishery Conservation and Manage-
12 ment Act (16 U.S.C. 1853(a)(5));

13 (ii) if the seafood was farm-raised, the
14 location of the aquaculture production
15 area, and the method of cultivation;

16 (iii) the date of the catch; and

17 (iv) the weight or number, as appro-
18 priate, of product for an individual fish or
19 lot.

20 (5) DOMESTIC FISHERMEN.—Disclosure of data
21 pursuant to section 303(a)(5) of the Magnuson-Ste-
22 vens Fishery Conservation and Management Act (16
23 U.S.C. 1853(a)(5)) by a person engaging in fishing
24 on a vessel of the United States (as that term is
25 used in that Act) is deemed to be in compliance by

1 such person with the requirements implemented
2 under paragraphs (1) and (2).

3 (b) REFUSAL OF ADMISSION.—

4 (1) IN GENERAL.—Subject to paragraphs (3)
5 and (4), all seafood imported or offered for import
6 originating from an exporter shall be refused admis-
7 sion if—

8 (A) the Secretary of Commerce finds that
9 any shipment of such seafood appears to be in
10 violation of subsection (a); or

11 (B) the Secretary of Health and Human
12 Services finds that any shipment of such sea-
13 food appears to be in violation of this Act or
14 other applicable Federal laws or regulations.

15 (2) IMPORT CERTIFICATION.—For any exporter
16 whose seafood products are refused admission under
17 paragraph (1) based on a prior shipment, the Sec-
18 retary of Health and Human Services shall deter-
19 mine whether to require, as a condition of granting
20 admission into the United States to an article of
21 seafood originating from such exporter, that such
22 seafood be accompanied by a certification or other
23 assurance under section 801(q) of the Federal Food,
24 Drug, and Cosmetic Act (21 U.S.C. 381(q)).

1 (3) ALLOWANCE OF INDIVIDUAL SHIPMENTS.—
2 Paragraph (1) does not apply with respect to an in-
3 dividual shipment of seafood originating from an ex-
4 porter whose products must otherwise be refused ad-
5 mission under such paragraph if the exporter pre-
6 sents evidence to the Secretary of Health and
7 Human Services or the Secretary of Commerce from
8 a laboratory accredited under section 422 of the
9 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
10 350k), or other equivalent evidence, documenting
11 that the shipment is in compliance with the provi-
12 sions of subsection (a) and other applicable Federal
13 laws or regulations prohibiting seafood fraud.

14 (4) TERMINATION OF INDIVIDUAL SHIPMENT
15 SCREENING REQUIREMENT.—Paragraph (1) shall
16 cease to prohibit the admission of seafood origi-
17 nating from an exporter based on a prior shipment
18 if the Secretary of Health and Human Services or
19 the Secretary of Commerce determines that—

20 (A) each prior shipment whose appearance
21 triggered the application of such paragraph was
22 in fact in compliance with the provisions of sub-
23 section (a) and other applicable Federal laws or
24 regulations, including those prohibiting seafood
25 fraud; or

1 (B) during the preceding 12 months, no
2 shipment of seafood originating from the ex-
3 porter has triggered the application of para-
4 graph (1).

5 (c) PENALTIES.—The Secretary of Commerce shall
6 prevent any person from violating this Act, or any Act to
7 which this section applies, in the same manner, by the
8 same means, and with the same jurisdiction, powers, and
9 duties as though sections 308 through 311 of the Magnu-
10 son-Stevens Fishery Conservation and Management Act
11 (16 U.S.C. 1858 through 1861) were incorporated into
12 and made a part of and applicable to this Act.

13 (d) LIST OF OFFENDERS.—The Secretary of Com-
14 merce, in consultation with the Secretary of Health and
15 Human Services, shall develop, maintain, and post on the
16 public website of the Department of Commerce a list
17 that—

18 (1) includes, by country, each exporter whose
19 seafood is imported or offered for import into the
20 United States; and

21 (2) for each such exporter, tracks the timing,
22 type, and frequency of violations of Federal law re-
23 lating to seafood fraud.

1 (e) INSPECTIONS.—The Secretary of Commerce, in
2 consultation with the Secretary of Health and Human
3 Services, shall—

4 (1) increase, as resources allow, the number of
5 foreign and domestic seafood shipments that are in-
6 spected for seafood fraud by National Oceanic and
7 Atmospheric Administration inspectors and author-
8 ized officers, including verification of compliance
9 with the traceability requirements of subsection
10 (a)(1);

11 (2) ensure that the percentage of seafood ship-
12 ments inspected during a given year is not lower
13 than the percentage inspected during the previous
14 year; and

15 (3) to the maximum extent practicable, ensure
16 that inspections and tests for seafood fraud preven-
17 tion also collect information to support the Secretary
18 of Health and Human Services in implementing the
19 seafood safety requirements of the FDA Food Safety
20 Modernization Act (Public Law 111–353).

21 (f) IMPACT ON EXISTING FOOD SAFETY AUTHOR-
22 ITY.—Nothing in this section shall be construed to limit
23 the authority of the Secretary of Health and Human Serv-
24 ices to execute or enforce food safety laws or regulations

1 that may be adopted pursuant to the FDA Food Safety
2 Modernization Act (Public Law 111–353).

3 **SEC. 4. AUTHORITY OF STATES.**

4 Whenever the attorney general of a State, or an offi-
5 cial or agency designated by a State, has reason to believe
6 that any person has engaged or is engaging in a pattern
7 or practice of seafood fraud in violation of subsection (a)
8 or (b) of section 3, the State may bring a civil action on
9 behalf of its residents to enjoin fraud, an action to recover
10 for actual monetary loss or receive \$10,000 in damages
11 for each violation, or both such actions. If the court finds
12 the defendant willfully or knowingly violated this Act, the
13 court may, in its discretion, increase the amount of the
14 award to an amount equal to not more than 3 times the
15 amount available under the preceding sentence. Nothing
16 in this section shall preclude an individual from bringing
17 a civil action.

18 **SEC. 5. PREEMPTION.**

19 Nothing in this Act preempts the authority of a State
20 to establish and enforce requirements for improving sea-
21 food safety and preventing seafood fraud that are con-
22 sistent with the requirements of this Act.

23 **SEC. 6. DEFINITIONS.**

24 In this Act:

1 (1) The term “other applicable Federal laws
2 and regulations” means Federal statutes, regula-
3 tions, and international agreements (other than this
4 Act) pertaining to the importation, exportation,
5 transportation, sale, harvest, processing, or trade of
6 seafood, including the Magnuson-Stevens Fishery
7 Conservation and Management Act (16 U.S.C. 1801
8 et seq.), the Lacey Act Amendments of 1981 (16
9 U.S.C. 3371 et seq.), the Federal Food, Drug, and
10 Cosmetic Act (21 U.S.C. 301 et seq.), the FDA
11 Food Safety Modernization Act (Public Law 111–
12 353), the Fair Packaging and Labeling Act (15
13 U.S.C. 1451 et seq.), subtitle D of the Agricultural
14 Marketing Act of 1946 (7 U.S.C. 1638 et seq.),
15 parts 60 and 65 of title 7, Code of Federal Regula-
16 tions (or any successor regulations), and part 123 of
17 title 21, Code of Federal Regulations (or any suc-
18 cessor regulations).

19 (2) The term “seafood” means finfish, shellfish,
20 processed fish, and all other forms of marine animal
21 and plant life other than marine mammals and
22 birds.

23 (3) The term “seafood fraud” means the
24 mislabeling or misrepresentation of the information

1 required under this Act or other applicable Federal
2 laws and regulations.

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