

108TH CONGRESS  
2D SESSION

# H. R. 4576

To amend the Agricultural Marketing Act of 1946 to establish a voluntary program for the provision of country of origin information with respect to certain agricultural products, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2004

Mr. GOODLATTE (for himself, Mr. STENHOLM, Mr. NEUGEBAUER, Mr. BONILLA, Mr. BOEHNER, Mr. SMITH of Michigan, Mrs. MUSGRAVE, Mr. HAYES, Mr. DOOLEY of California, Mr. ORTIZ, Mr. KENNEDY of Minnesota, Mr. PETERSON of Pennsylvania, Mr. FARR, Mr. CHOCOLA, Mr. BERRY, and Mr. ACEVEDO-VILÁ) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Agricultural Marketing Act of 1946 to establish a voluntary program for the provision of country of origin information with respect to certain agricultural products, 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 “Food Promotion Act  
5 of 2004”.

1 **SEC. 2. REPLACEMENT OF MANDATORY COUNTRY OF ORI-**  
2 **GIN LABELING WITH VOLUNTARY PROGRAM**  
3 **OF COUNTRY OF ORIGIN LABELING.**

4 Subtitle D of the Agricultural Marketing Act of 1946  
5 (7 U.S.C. 1638–1638d) is amended to read as follows:

6 **“SEC. 281. VOLUNTARY PROGRAM OF COUNTRY OF ORIGIN**  
7 **LABELING FOR CERTAIN MEAT PRODUCTS.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) The term ‘beef’ means meat produced  
10 from cattle (including veal).

11 “(2) The term ‘covered meat product’ means  
12 ground beef, ground pork, and ground lamb, and  
13 raw unprocessed muscle cuts of beef, pork and lamb.

14 “(3) The term ‘lamb’ means meat produced  
15 from sheep.

16 “(4) The term ‘pork’ means meat produced  
17 from hogs.

18 “(b) COUNTRY OF ORIGIN LABELING.—The Sec-  
19 retary of Agriculture shall establish a voluntary program  
20 of country of origin labeling for covered meat products.

21 “(c) LABEL.—In the program established under sub-  
22 section (b), the Secretary shall—

23 “(1) create a label to be used to designate the  
24 country of origin of covered meat products; and

25 “(2) require persons participating in the pro-  
26 gram to use the label created under paragraph (1),

1 or such other label as the Secretary determines ap-  
 2 propriate, to designate the country of origin of cov-  
 3 ered meat products.

4 “(d) LIMITATION ON USE OF UNITED STATES COUN-  
 5 TRY OF ORIGIN LABEL.—A person participating in the  
 6 program established under subsection (b) may not des-  
 7 ignate a covered meat product as having a United States  
 8 country of origin unless the covered meat product is de-  
 9 rived exclusively from—

10 “(1) an animal born, raised, and slaughtered in  
 11 the United States; or

12 “(2) an animal born and raised in Alaska or  
 13 Hawaii, transported for a period not to exceed 60  
 14 days outside of those States, and slaughtered in the  
 15 United States.

16 **“SEC. 282. VOLUNTARY PROGRAM OF COUNTRY OF ORIGIN**  
 17 **LABELING FOR FISH PRODUCTS.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) The term ‘farm-raised fish’ means all fish  
 20 that are not wild fish. The term includes net-pen,  
 21 aquacultural, and other farm-raised fish.

22 “(2) The term ‘farm-raised shellfish’ means all  
 23 shellfish that are not wild shellfish. The term in-  
 24 cludes net-pen, aquacultural, and other farm-raised  
 25 fish.

1           “(3) The term ‘wild fish’ means naturally-born  
2           or hatchery-raised fish harvested in the wild.

3           “(4) The term ‘wild shellfish’ means naturally-  
4           born or hatchery-raised shellfish harvested in the  
5           wild.

6           “(b) COUNTRY OF ORIGIN LABELING.—The Sec-  
7           retary of Agriculture shall establish a voluntary program  
8           of country of origin labeling for wild fish, wild shellfish,  
9           farm-raised fish, farm-raised shellfish, and products there-  
10          of.

11          “(c) LABEL.—In the program established under sub-  
12          section (b), the Secretary shall—

13               “(1) create a label to be used to designate the  
14               country of origin of wild fish, wild shellfish, farm-  
15               raised fish, farm-raised shellfish, and products there-  
16               of; and

17               “(2) require persons participating in the pro-  
18               gram to use the label created under paragraph (1),  
19               or such other label as the Secretary determines ap-  
20               propriate, to designate the country of origin of wild  
21               fish, wild shellfish, farm-raised fish, farm-raised  
22               shellfish, and products thereof.

23          “(d) LIMITATION ON USE OF UNITED STATES COUN-  
24          TRY OF ORIGIN LABEL.—A person participating in the  
25          program established under subsection (b) may not des-

1 ignate wild fish, wild shellfish, farm-raised fish, farm-  
 2 raised shellfish, or products thereof as having a United  
 3 States country of origin unless—

4 “(1) in the case of wild fish or wild shellfish (or  
 5 a product thereof), the wild fish or wild shellfish is  
 6 harvested in the waters of the United States or by  
 7 a United States vessel on the high seas; or

8 “(2) in the case of farm-raised fish or farm-  
 9 raised shellfish (or a product thereof), the farm-  
 10 raised fish or farm-raised shellfish is raised and har-  
 11 vested in the United States.

12 **“SEC. 283. VOLUNTARY PROGRAM OF COUNTRY OF ORIGIN**  
 13 **LABELING FOR PERISHABLE AGRICULTURAL**  
 14 **COMMODITIES.**

15 “(a) DEFINITION.—In this section the term ‘perish-  
 16 able agricultural commodity’—

17 “(1) means fresh fruits and vegetables of every  
 18 kind and character, except frozen fruits and vegeta-  
 19 bles; and

20 “(2) includes cherries packed in brine as de-  
 21 fined by the Secretary in accordance with trade us-  
 22 ages.

23 “(b) COUNTRY OF ORIGIN LABELING.—The Sec-  
 24 retary of Agriculture shall establish a voluntary program

1 of country of origin labeling for perishable agricultural  
2 commodities.

3 “(c) LABEL.—In the program established under sub-  
4 section (b), the Secretary shall—

5 “(1) create a label to be used to designate the  
6 country of origin of perishable agricultural commod-  
7 ities; and

8 “(2) require persons participating in the pro-  
9 gram to use to use the label created under para-  
10 graph (1), or such other label as the Secretary de-  
11 termines appropriate, to designate the country of or-  
12 igin of perishable agricultural commodities.

13 “(d) LIMITATION ON USE OF UNITED STATES COUN-  
14 TRY OF ORIGIN LABEL.—A person participating in the  
15 program established under subsection (b) may not des-  
16 ignate a perishable agricultural commodity as having a  
17 United States country of origin unless the perishable agri-  
18 cultural commodity is exclusively grown in the United  
19 States.

20 “(e) SURVEY OF COUNTRY OF ORIGIN LABELING;  
21 PURPOSE.—

22 “(1) DEFINITION.—In this subsection, the term  
23 ‘label’ means a method to provide information to  
24 consumers by means of a stamp, mark, placard, or  
25 other clear and visible sign (including printed pack-

1       aging, cello wraps, twist ties, brand tags, bands,  
2       stickers, or other identifiers) affixed to or placed di-  
3       rectly on a perishable agricultural commodity or on  
4       the display, holding unit, or bin containing the com-  
5       modity at the final point of sale.

6               “(2) SURVEY REQUIRED; INTERVALS.—Subject  
7       to subsection (f)(2)(C), during the 12-month period  
8       beginning on the date of the enactment of the Food  
9       Promotion Act of 2004, and every two years there-  
10      after, the Secretary shall conduct, using existing re-  
11      sources, a national survey—

12               “(A) to estimate the types and quantities  
13       of perishable agricultural commodities sold in  
14       the United States that are labeled with respect  
15       to country of origin;

16               “(B) to measure the extent of the vol-  
17       untary efforts of the perishable agricultural  
18       commodity industry to provide country of origin  
19       information to consumers, including the overall  
20       percentage of perishable agricultural commod-  
21       ities that bear labels with country of origin in-  
22       formation;

23               “(C) to determine methods by which coun-  
24       try of origin information is provided with re-

1           gard to perishable agricultural commodities sold  
2           in the United States;

3           “(D) to estimate the types of quantities of  
4           perishable agricultural commodities sold in the  
5           United States that are labeled, but for which no  
6           country of origin information is provided;

7           “(E) to estimate the types of quantities of  
8           perishable agricultural commodities sold in the  
9           United States that are not labeled;

10          “(F) to estimate the extent of participation  
11          in the voluntary program established under sub-  
12          section (b); and

13          “(G) to determine whether consumers can  
14          reasonably ascertain the country of origin of a  
15          substantial majority of perishable agricultural  
16          commodities for sale.

17          “(3) LOCATION OF SURVEY.—The survey may  
18          be conducted at retail stores and other locations se-  
19          lected by the Secretary.

20          “(4) SPECIAL CONSIDERATIONS.—For the pur-  
21          poses of conducting the survey, the Secretary shall  
22          consider—

23                 “(A) bulk displays containing covered per-  
24                 ishable agricultural commodities from more  
25                 than one country to be labeled with country of



1 origin information if a majority of the perish-  
2 able agricultural commodities therein bear  
3 country of origin labels; and

4 “(B) label information regarding a State,  
5 region, or locality of the United States as infor-  
6 mation sufficient to identify the United States  
7 as the country of origin.

8 “(f) USE AND AVAILABILITY OF SURVEY RE-  
9 SULTS.—

10 “(1) REPORT TO CONGRESS.—The Secretary  
11 shall submit to the Committee on Agriculture of the  
12 House of Representatives and the Committee on Ag-  
13 riculture, Nutrition, and Forestry of the Senate a  
14 report containing the results of each survey con-  
15 ducted under subsection (e).

16 “(2) SUBSEQUENT SURVEYS.—

17 “(A) DETERMINATION OF CONSUMER  
18 AWARENESS.—In other than the first survey  
19 conducted under subsection (e), if the Secretary  
20 makes a determination that consumers cannot  
21 reasonably ascertain the country of origin of a  
22 substantial majority of perishable agricultural  
23 commodities, the Secretary shall include in the  
24 report submitted under paragraph (1) with re-  
25 spect to that survey—

1 “(i) specific action steps that would  
2 provide the perishable agricultural com-  
3 modity distribution chain with incentives to  
4 increase country of origin labeling levels;  
5 and

6 “(ii) proposed guidelines that would  
7 increase the use of country of origin identi-  
8 fication labels.

9 “(B) EFFECT OF FAILURE TO ASCERTAIN  
10 COUNTRY OF ORIGIN.—If the Secretary makes  
11 the determination that consumers cannot rea-  
12 sonably ascertain the country of origin of a sub-  
13 stantial majority of perishable agricultural com-  
14 modities in two consecutive surveys conducted  
15 under subsection (e), the Secretary shall include  
16 in the report submitted under paragraph (1)  
17 with respect to the second of the two surveys  
18 such recommendations as the Secretary deter-  
19 mines appropriate regarding ways to increase  
20 labeling to achieve that goal.

21 “(C) EFFECT OF ABILITY TO ASCERTAIN  
22 COUNTRY OF ORIGIN.—If the Secretary makes  
23 the determination that consumers can reason-  
24 ably ascertain the country of origin of a sub-  
25 stantial majority of perishable agricultural com-

1           modities in two consecutive surveys conducted  
2           under subsection (e), the Secretary shall no  
3           longer be required to conduct surveys under  
4           such subsection.

5           “(3) PUBLIC AVAILABILITY.—The Secretary  
6           shall make the results of each survey conducted  
7           under subsection (e) available to the perishable agri-  
8           cultural commodity industry and the public.

9   **“SEC. 284. VERIFICATION.**

10          “The Secretary of Agriculture may require partici-  
11       pants in a program of country of origin labeling under  
12       section 281, 282, or 283 to maintain a verifiable record-  
13       keeping audit trail that will permit the Secretary to verify  
14       compliance with the program.

15   **“SEC. 285. ENFORCEMENT.**

16          “(a) CIVIL PENALTY.—

17               “(1) ASSESSMENT.—The Secretary of Agri-  
18       culture may assess a civil penalty against a partici-  
19       pant in a program of country of origin labeling  
20       under section 281, 282, or 283 that purposely or  
21       knowingly violates the terms of the program.

22               “(2) AMOUNT OF PENALTY.—The amount of  
23       the civil penalty assessed under paragraph (1) may  
24       not exceed \$10,000 for each violation.

1           “(3) CONTINUING VIOLATION.—Each day dur-  
2           ing which a violation continues shall be considered to  
3           be a separate violation.

4           “(b) NOTICE AND HEARING.—The Secretary may not  
5           assess a penalty under subsection (a) against a person un-  
6           less the person is given notice and an opportunity for a  
7           hearing in accordance with section 554 of title 5, United  
8           States Code, with respect to the violation.”.

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