

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1300

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 SENATE OF THE UNITED STATES

JUNE 23, 2005

Mr. SANTORUM (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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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 2005”.

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 **“Subtitle D—Voluntary Country of**  
 7 **Origin Labeling**

8 **“SEC. 281. VOLUNTARY PROGRAM OF COUNTRY OF ORIGIN**  
 9 **LABELING FOR CERTAIN MEAT PRODUCTS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) BEEF.—The term ‘beef’ means meat pro-  
 12 duced from cattle (including veal).

13 “(2) COVERED MEAT PRODUCT.—The term  
 14 ‘covered meat product’ means ground beef, ground  
 15 pork, and ground lamb, and fresh muscle cuts of  
 16 beef, pork and lamb.

17 “(3) LAMB.—The term ‘lamb’ means meat pro-  
 18 duced from sheep.

19 “(4) PORK.—The term ‘pork’ means meat pro-  
 20 duced from swine.

21 “(b) COUNTRY OF ORIGIN LABELING.—The Sec-  
 22 retary of Agriculture (referred to in this subtitle as the  
 23 ‘Secretary’) shall establish a voluntary program of country  
 24 of origin labeling for covered meat products.

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

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

3           “(2) require persons participating in the pro-  
4 gram to use the label created under paragraph (1),  
5 or such other label as the Secretary determines ap-  
6 propriate, to designate the country of origin of cov-  
7 ered meat products.

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

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

16           “(2) an animal born and raised in Alaska or  
17 Hawaii, transported for a period not to exceed 60  
18 days outside of those States, and slaughtered in the  
19 United States.

20 **“SEC. 282. VOLUNTARY PROGRAM OF COUNTRY OF ORIGIN**  
21 **LABELING FOR FISH PRODUCTS.**

22           “(a) DEFINITIONS.—In this section:

23           “(1) COVERED FISH.—The term ‘covered  
24 fish’ means—

25           “(A) wild fish;

1 “(B) wild shellfish;

2 “(C) farm-raised fish;

3 “(D) farm-raised shellfish; and

4 “(E) products of fish described in subpara-  
5 graphs (A) through (D).

6 “(2) FARM-RAISED FISH.—The term ‘farm-  
7 raised fish’—

8 “(A) means all fish that are not wild fish;  
9 and

10 “(B) includes net-pen, aquacultural, and  
11 other farm-raised fish.

12 “(3) FARM-RAISED SHELLFISH.—The term  
13 ‘farm-raised shellfish’ means—

14 “(A) all shellfish that are not wild shell-  
15 fish; and

16 “(B) includes net-pen, aquacultural, and  
17 other farm-raised fish.

18 “(4) WILD FISH.—The term ‘wild fish’ means  
19 naturally-born or hatchery-raised fish harvested in  
20 the wild.

21 “(5) WILD SHELLFISH.—The term ‘wild shell-  
22 fish’ means naturally-born or hatchery-raised shell-  
23 fish harvested in the wild.

1       “(b) COUNTRY OF ORIGIN LABELING.—The Sec-  
2 retary shall establish a voluntary program of country of  
3 origin labeling for covered fish.

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

6               “(1) create a label to be used to designate the  
7 country of origin of covered fish; and

8               “(2) require persons participating in the pro-  
9 gram to use the label created under paragraph (1),  
10 or such other label as the Secretary determines ap-  
11 propriate, to designate the country of origin of cov-  
12 ered fish.

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 covered fish as having a United States country of  
17 origin unless—

18               “(1) in the case of wild fish or wild shellfish (or  
19 a product thereof), the wild fish or wild shellfish  
20 is—

21                       “(A) harvested in the waters of the United  
22 States or by a United States vessel on the high  
23 seas; and

1           “(B) processed in the United States or  
2           aboard a United States vessel on the high seas;  
3           or

4           “(2) in the case of farm-raised fish or farm-  
5           raised shellfish (or a product thereof), the farm-  
6           raised fish or farm-raised shellfish is raised and har-  
7           vested in the United States.

8   **“SEC. 283. VOLUNTARY PROGRAM OF COUNTRY OF ORIGIN**  
9                   **LABELING FOR PERISHABLE AGRICULTURAL**  
10                   **COMMODITIES.**

11           “(a) DEFINITION OF PERISHABLE AGRICULTURAL  
12   COMMODITY.—In this section, the term ‘perishable agri-  
13   cultural commodity’—

14           “(1) means fresh fruits and vegetables of every  
15           kind and character, except frozen fruits and vegeta-  
16           bles; and

17           “(2) includes cherries packed in brine, as de-  
18           fined by the Secretary in accordance with trade us-  
19           ages.

20           “(b) COUNTRY OF ORIGIN LABELING.—The Sec-  
21   retary shall establish a voluntary program of country of  
22   origin labeling for perishable agricultural commodities.

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

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

4           “(2) require persons participating in the pro-  
5           gram to use the label created under paragraph (1),  
6           or such other label as the Secretary determines ap-  
7           propriate, to designate the country of origin of per-  
8           ishable agricultural commodities.

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

16          “(e) SURVEY OF COUNTRY OF ORIGIN LABELING;  
17          PURPOSE.—

18                 “(1) DEFINITION OF LABEL.—In this sub-  
19                 section, the term ‘label’ means a method to provide  
20                 information to consumers by means of a stamp,  
21                 mark, placard, or other clear and visible sign (in-  
22                 cluding printed packaging, cello wraps, twist ties,  
23                 brand tags, bands, stickers, or other identifiers) af-  
24                 fixed to or placed directly on a perishable agricul-  
25                 tural commodity or on the display, holding unit, or

1 bin containing the commodity at the final point of  
2 sale.

3 “(2) SURVEY REQUIRED; INTERVALS.—Subject  
4 to subsection (f)(2)(C), during the 1 year beginning  
5 on the date of the enactment of the Food Promotion  
6 Act of 2005, and every 2 years thereafter, the Sec-  
7 retary shall conduct, using existing resources, a na-  
8 tional survey—

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

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

20 “(C) to determine methods by which coun-  
21 try of origin information is provided with re-  
22 gard to perishable agricultural commodities sold  
23 in the United States;

24 “(D) to estimate the types and quantities  
25 of perishable agricultural commodities sold in

1 the United States that are labeled, but for  
2 which no country of origin information is pro-  
3 vided;

4 “(E) to estimate the types and quantities  
5 of perishable agricultural commodities sold in  
6 the United States that are not labeled;

7 “(F) to estimate the extent of participation  
8 in the voluntary program established under sub-  
9 section (b); and

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

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

17 “(4) SPECIAL CONSIDERATIONS.—For the pur-  
18 poses of conducting the survey, the Secretary shall  
19 consider—

20 “(A) bulk displays containing covered per-  
21 ishable agricultural commodities from more  
22 than 1 country to be labeled with country of or-  
23 igin information if a majority of the perishable  
24 agricultural commodities in the bulk display  
25 bear country of origin labels; and

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

5           “(f) USE AND AVAILABILITY OF SURVEY RE-  
6           SULTS.—

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

13          “(2) SUBSEQUENT SURVEYS.—

14                 “(A) DETERMINATION OF CONSUMER  
15                 AWARENESS.—In each survey other than the  
16                 first survey conducted under subsection (e), if  
17                 the Secretary determines that consumers can-  
18                 not reasonably ascertain the country of origin  
19                 of a substantial majority of perishable agricul-  
20                 tural commodities, the Secretary shall include  
21                 in the report submitted under paragraph (1)  
22                 with respect to that survey—

23                         “(i) specific action steps that would  
24                         provide the perishable agricultural com-  
25                         modity distribution chain with incentives to

1 increase country of origin labeling levels;  
2 and

3 “(ii) proposed guidelines that would  
4 increase the use of country of origin identi-  
5 fication labels.

6 “(B) EFFECT OF FAILURE TO ASCERTAIN  
7 COUNTRY OF ORIGIN.—If the Secretary deter-  
8 mines that consumers cannot reasonably ascer-  
9 tain the country of origin of a substantial ma-  
10 jority of perishable agricultural commodities in  
11 2 consecutive surveys conducted under sub-  
12 section (e), the Secretary shall include in the  
13 report submitted under paragraph (1) with re-  
14 spect to the second of the 2 surveys such rec-  
15 ommendations as the Secretary determines ap-  
16 propriate regarding ways to increase labeling to  
17 achieve that goal.

18 “(C) EFFECT OF ABILITY TO ASCERTAIN  
19 COUNTRY OF ORIGIN.—If the Secretary makes  
20 the determination that consumers can reason-  
21 ably ascertain the country of origin of a sub-  
22 stantial majority of perishable agricultural com-  
23 modities in 2 consecutive surveys conducted  
24 under subsection (e), the Secretary shall no

1 longer be required to conduct surveys under  
2 that subsection.

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

7 **“SEC. 284. VERIFICATION.**

8 “The Secretary may require participants in a pro-  
9 gram of country of origin labeling under section 281, 282,  
10 or 283 to maintain a verifiable recordkeeping audit trail  
11 that will permit the Secretary to verify compliance with  
12 the program.

13 **“SEC. 285. ENFORCEMENT.**

14 “(a) CIVIL PENALTY.—

15 “(1) ASSESSMENT.—The Secretary may assess  
16 a civil penalty against a participant in a program of  
17 country of origin labeling under section 281, 282, or  
18 283 that purposely or knowingly violates the terms  
19 of the program.

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

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

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

7 **“SEC. 286. REGULATIONS.**

8           “Not later than 180 days after the date of the enact-  
9 ment of the Food Promotion Act of 2005, the Secretary  
10 shall promulgate regulations to carry out this subtitle.”.

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