

112TH CONGRESS
2D SESSION

S. 3615

To enhance national seafood marketing efforts through the creation of a National Seafood Marketing and Development Fund, Regional Seafood Marketing Boards and a National Coordinating Committee and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2012

Mr. BEGICH introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To enhance national seafood marketing efforts through the creation of a National Seafood Marketing and Development Fund, Regional Seafood Marketing Boards and a National Coordinating Committee 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 “National Seafood Mar-
5 keting and Development Act of 2012”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) The fishery resources of the United States
5 are valuable and renewable natural resources that
6 provide a major source of employment and con-
7 tribute significantly to the food supply, economy,
8 and health of the United States.

9 (2) Increased consumption of seafood would
10 provide significant nutritional and health benefits for
11 many people in the United States and help to reduce
12 childhood obesity.

13 (3) The fishery resources of the United States
14 are not fully developed and utilized because of un-
15 derdeveloped markets.

16 (4) United States seafood companies have the
17 potential to expand their contribution to interstate
18 and foreign commerce, favorably affecting the bal-
19 ance of trade.

20 (5) A national program for marketing seafood
21 is needed to realize the full potential of the fishery
22 resources of the United States and to assure that
23 the people of the United States benefit from the em-
24 ployment, food supply, and revenue that could be
25 generated by such realization.

26 (b) PURPOSES.—The purposes of this Act are—

1 (1) to improve and expand markets for seafood
2 and strengthen the competitive position of the
3 United States in domestic and international mar-
4 kets;

5 (2) to encourage the sustainable development
6 and utilization of the seafood resources of the
7 United States through enhancement of markets, pro-
8 motion, and public education;

9 (3) to assist growers, harvesters, and processors
10 in improving the safety, traceability, quality, market-
11 ability, and sustainability of United States seafood
12 products;

13 (4) to assist growers, harvesters, and processors
14 of United States seafood products in the develop-
15 ment and promotion of markets for seafood and im-
16 prove coordination of their marketing activities; and

17 (5) to educate and inform consumers about the
18 nutritional and health benefits of seafood.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) **BOARD.**—The term “Board” means a Re-
22 gional Seafood Marketing Board established under
23 section 4.

24 (2) **CONSUMER EDUCATION.**—The term “con-
25 sumer education” means actions undertaken to in-

1 form consumers on matters related to the consump-
2 tion of seafood products.

3 (3) FUND.—The term “Fund” means the Na-
4 tional Seafood Marketing and Development Fund es-
5 tablished by section 5.

6 (4) GROWER.—The term “grower” means any
7 person in the business of growing or farming sea-
8 food.

9 (5) HARVESTER.—The term “harvester” means
10 any person in the business of harvesting seafood
11 from the wild.

12 (6) MARKETER.—The term “marketer” means
13 any person in the business of selling seafood in the
14 wholesale, retail, or restaurant trade, but whose pri-
15 mary business function is not the processing or
16 packaging of seafood in preparation for sale.

17 (7) MARKETING AND PROMOTION.—The term
18 “marketing and promotion” means an activity aimed
19 at encouraging the consumption of seafood or ex-
20 panding or maintaining commercial markets for sea-
21 food.

22 (8) PERSON.—The term “person” means any
23 individual, group of individuals, partnership, cor-
24 poration, association, cooperative, or any private en-
25 tity organized or existing under the laws of the

1 United States or any State, commonwealth, terri-
2 tory, or possession of the United States.

3 (9) PROCESSOR.—The term “processor” means
4 any person in the business of preparing or pack-
5 aging seafood (including seafood of the processor’s
6 own harvesting) for sale.

7 (10) RESEARCH.—The term “research” means
8 any study or project designed to advance the image,
9 desirability, usage, marketability, production, or
10 quality of seafood.

11 (11) SEAFOOD.—The term “seafood” means
12 farm-raised and wild-caught fish or shellfish har-
13 vested in the United States or by a United States
14 flagged vessel for human consumption.

15 (12) SEAFOOD INDUSTRY.—The term “seafood
16 industry” means harvesters, marketers, growers,
17 processors, and persons providing them with goods
18 and services.

19 (13) SECRETARY.—Except as otherwise specifi-
20 cally provided, the term “Secretary” means the Sec-
21 retary of Commerce.

22 (14) UNITED STATES.—The term “United
23 States”, when used in the geographic sense, means
24 the several States, the District of Columbia, Puerto
25 Rico, the Virgin Islands, Guam, American Samoa,

1 the Northern Mariana Islands, and any other terri-
 2 tory, possession, or commonwealth of the United
 3 States.

4 **SEC. 4. REGIONAL SEAFOOD MARKETING BOARDS.**

5 (a) ESTABLISHMENT OF REGIONAL SEAFOOD MAR-
 6 KETING BOARDS.—Not later than 90 days after the date
 7 of the enactment of this Act, the Secretary shall establish
 8 Regional Seafood Marketing Boards as follows:

9 (1) NORTHEAST ATLANTIC BOARD.—The
 10 Northeast Atlantic Board shall consist of the fol-
 11 lowing members:

12 (A) Twelve members from the State of
 13 Maine, New Hampshire, Massachusetts, Rhode
 14 Island, or Connecticut.

15 (B) One member from the State of
 16 Vermont, Minnesota, Wisconsin, Illinois, Michi-
 17 gan, Indiana, or Ohio.

18 (2) MID AND SOUTH ATLANTIC BOARD.—The
 19 Mid and South Atlantic Board shall consist of the
 20 following members:

21 (A) Twelve members from the State of
 22 New York, New Jersey, Delaware, Pennsyl-
 23 vania, Maryland, Virginia, North Carolina,
 24 South Carolina, or Georgia.

1 (B) One member from the State of West
2 Virginia, Kentucky, or Tennessee.

3 (3) GULF AND CARIBBEAN BOARD.—The Gulf
4 and Caribbean Board shall consist of the following
5 members:

6 (A) Twelve members from the State of
7 Florida, Alabama, Mississippi, Louisiana, or
8 Texas, the Commonwealth of Puerto Rico, or
9 the territory of the Virgin Islands.

10 (B) One member from the State of Okla-
11 homa, Arkansas, Missouri, Iowa, Nebraska, or
12 Kansas.

13 (4) PACIFIC BOARD.—The Pacific Board shall
14 consist of the following members:

15 (A) Twelve members from the State of
16 Idaho, Washington, Oregon, or California.

17 (B) One member from the State of Ari-
18 zona, Nevada, New Mexico, Utah, Colorado,
19 Wyoming, Montana, North Dakota, or South
20 Dakota.

21 (5) WEST AND NORTH PACIFIC BOARD.—The
22 West and North Pacific Board shall consist of thir-
23 teen members from the State of Alaska or Hawaii
24 or the territory of Guam or American Samoa.

25 (b) APPOINTMENT OF MEMBERS.—

1 (1) NOMINATION.—Not later than 90 days
2 after the date of the enactment of this Act, the Sec-
3 retary shall solicit nominations for members of each
4 Board from the public.

5 (2) CONSULTATION.—Prior to appointing an in-
6 dividual to the Board, the Secretary shall consult
7 with and seek the recommendations of the Governors
8 of the States in the geographical area of the Board.

9 (3) APPOINTMENT.—Not later than 270 days
10 after the date of the enactment of this Act, the Sec-
11 retary shall appoint the members of each Board
12 from among the nominees received under paragraph
13 (1) and the recommendations received under para-
14 graph (2).

15 (4) MEMBER EXPERTISE.—The Secretary shall
16 ensure that the members of each Board fairly reflect
17 the expertise and interest of the seafood industry lo-
18 cated in the geographical area of the Board, and
19 that the members of each Board include the fol-
20 lowing:

21 (A) Three individuals with experience in
22 harvesting.

23 (B) Two individuals with experience in
24 processing, including one having experience

1 with large processors and one having experience
2 with small processors.

3 (C) One individual with experience in
4 transportation and logistics.

5 (D) One individual with experience in mass
6 market food distribution.

7 (E) One individual with experience in mass
8 market food retail or food service.

9 (F) One individual with experience in the
10 marketing of seafood.

11 (G) One individual recommended by a re-
12 gional or State seafood marketing organization.

13 (H) One individual with experience in
14 growing seafood.

15 (I) Two individuals that represent the gen-
16 eral public and are familiar with the seafood in-
17 dustry as a whole.

18 (5) MEMBER TERMS.—

19 (A) IN GENERAL.—The term for a member
20 of a Board shall be 3 years unless the Secretary
21 designates a shorter term to provide for stag-
22 gered expirations of terms of office.

23 (B) TERM LIMITS.—No member of a
24 Board may serve more than 3 consecutive
25 terms, except that a member may continue to

1 serve on a Board beyond that member's term
2 until a successor is appointed.

3 (c) VACANCIES.—

4 (1) REMOVAL.—A Board may remove a mem-
5 ber from the Board for failure to attend 3 consecu-
6 tive Board meetings without reasonable excuse, or
7 for other cause by not less than $\frac{2}{3}$ of the members
8 of the Board.

9 (2) EFFECT OF VACANCY.—A vacancy shall not
10 affect the ability of a Board to function.

11 (3) SUBSEQUENT APPOINTMENT.—A vacancy
12 on a Board shall be filled by the manner in which
13 the original appointment was made.

14 (d) PER DIEM AND EXPENSES.—A member of a
15 Board shall serve without compensation, but shall be reim-
16 bursed in accordance with section 5703 of title 5, United
17 States Code, for reasonable travel costs and expenses in-
18 curred in performing duties as a member of a Board.

19 (e) CHAIRMAN.—Each Board shall elect a chairman
20 by a majority of those voting, if a quorum is present.

21 (f) QUORUM.—A simple majority of members of a
22 Board shall constitute a quorum, but a lesser number may
23 hold hearings.

24 (g) EXECUTIVE DIRECTOR, STAFF, ADMINISTRATIVE
25 ASSISTANCE.—

1 (1) EXECUTIVE DIRECTOR.—

2 (A) IN GENERAL.—A Board may employ
3 and determine the salary of an executive direc-
4 tor, but such salary shall not exceed level II of
5 the Executive Schedule under section 5313 of
6 title 5, United States Code.

7 (B) SELECTION CRITERIA.—The individual
8 selected as the executive director shall have
9 demonstrated expertise in the marketing and
10 promotion of food products.

11 (2) STAFF.—With the approval of the Board,
12 the executive director may select and employ addi-
13 tional staff as necessary without regard to the provi-
14 sions of title 5, United States Code.

15 (3) ADMINISTRATIVE ASSISTANCE.—The Sec-
16 retary shall provide each Board such administrative
17 assistance as requested by the Board for purposes of
18 its initial organization and operation.

19 (h) NATIONAL COORDINATING COMMITTEE.—

20 (1) ESTABLISHMENT.—The chairman and 2
21 members of each Board shall establish a National
22 Coordinating Committee—

23 (A) to exchange information and, if appro-
24 priate, coordinate the activities of the Boards;
25 and

1 (B) to conduct other business consistent
2 with the policies and purposes of this Act.

3 (2) MEETING.—The National Coordinating
4 Committee shall meet at least once each year.

5 (i) VOLUNTARY PAYMENTS.—Any person may make
6 a voluntary payment to the Secretary to assist a Board
7 in carrying out their marketing plans. Such payments
8 shall be disbursed to the appropriate Board from the
9 Fund.

10 (j) ANNUAL MARKETING PLAN.—

11 (1) REQUIREMENT FOR PLAN.—Each Board
12 may prepare an annual marketing plan that de-
13 scribes the consumer education, research, and other
14 marketing activities of the Board for the following
15 year, including the selection procedures and criteria
16 the Board plans to use for the solicitation and
17 awarding of grants and its plans to coordinate its
18 activities with those of the other Boards established
19 under this Act. Plans may include marketing activi-
20 ties that reference a particular brand or trade name,
21 and may include projects designed to promote the
22 consumption or purchase of a specific seafood spe-
23 cies or group of similar seafood.

24 (2) PURPOSE.—The purpose of each annual
25 marketing plan shall be to—

1 (A) increase consumer demand for seafood;

2 (B) encourage, expand, or improve the
3 marketing and utilization of seafood; and

4 (C) improve consumer education, research,
5 and other marketing activities regarding sea-
6 food.

7 (k) ACCOUNTING.—

8 (1) RECORDS.—Each Board shall maintain ac-
9 counting records of the receipt and disbursement of
10 all funds of the Board, which shall be subject to the
11 review of the Secretary.

12 (2) REPORTS.—Each Board shall submit an an-
13 nual report to the Secretary, detailing the expendi-
14 tures of the Board.

15 (3) FUNDS.—Each Board shall keep the monies
16 distributed to it from the Fund on deposit in appro-
17 priate interest-bearing accounts that shall be estab-
18 lished by the Board or invested in obligations of, or
19 guaranteed by, the United States. Any revenue ac-
20 cruing from such deposits and investments shall be
21 available to the Board for carrying out its marketing
22 plans.

23 (l) LIMITATIONS ON DECEPTIVE OR NEGATIVE MAR-
24 KETING.—Consumer education and other marketing and
25 promotion activities of the Boards shall avoid use of decep-

1 tive or negative acts or practices on behalf of fish or fish
2 products or with respect to the quality, value, or use of
3 any competing product or group of products.

4 (m) GRANTS.—

5 (1) REQUIREMENT TO MAKE.—Each Board
6 shall make grants to persons to carry out projects
7 subject to such terms and conditions as the Board
8 may require, consistent with the purposes of this Act
9 and any marketing plan the Board has adopted.

10 (2) COST-SHARING.—A grant made by a Board
11 under paragraph (1) may not exceed 50 percent of
12 the total estimated cost of the project. The remain-
13 ing 50 percent shall be provided by the grantee,
14 which may include the value of in-kind contributions
15 from the grantee.

16 (3) AWARD.—Each Board shall award at least
17 10 percent of the grant funds awarded by the Board
18 under this paragraph each year to minority-owned,
19 veteran-owned, or small businesses.

20 (n) CONFLICT OF INTEREST.—The conflict of inter-
21 est and recusal provisions set forth in section 302(j) of
22 the Magnuson-Stevens Fishery Conservation and Manage-
23 ment Act (16 U.S.C. 1852(j)) shall apply to any decision
24 by the Board and to all members of the Board as if each
25 member of the Board is an affected individual within the

1 meaning of such section 302(j), except that in addition
 2 to the disclosure requirements of section 302(j)(2)(C) of
 3 such Act, (16 U.S.C. 1852(j)(2)(C)), each Board member
 4 shall disclose any financial interest or relationship in an
 5 organization or with an individual that is applying for
 6 funding from the Board held by the Board member, in-
 7 cluding an interest as an officer, director, trustee, partner,
 8 employee, contractor, agent, or other representative.

9 **SEC. 5. NATIONAL SEAFOOD MARKETING AND DEVELOP-**
 10 **MENT FUND.**

11 (a) ESTABLISHMENT.—There is established in the
 12 Treasury of the United States a fund to be known as the
 13 National Seafood Marketing and Development Fund.

14 (b) EXCLUSIVE USE OF FUND.—Notwithstanding
 15 any other provision of law, all amounts in the Fund shall
 16 be used exclusively by the Secretary for making grants to
 17 the Boards under this Act and no such amount shall be
 18 transferred from the Fund for any other purpose.

19 (c) DISTRIBUTION OF AMOUNTS.—

20 (1) IN GENERAL.—The amount available in the
 21 Fund for each fiscal year shall be disbursed by the
 22 Secretary for such fiscal year to the Boards as fol-
 23 lows:

1 (A) Eighty percent of such amount in the
2 Fund shall be distributed equally among the
3 Boards.

4 (B) Twenty percent shall be distributed to
5 the Boards based on a ratio of the total pounds
6 of seafood harvested in the geographical area of
7 each Board to the total pounds of seafood har-
8 vested in the United States.

9 (2) RATIO CALCULATION.—The ratio referred
10 to in subparagraph (B) shall be calculated by the
11 Secretary every 3 years using data collected by the
12 Secretary of Commerce and the Secretary of Agri-
13 culture.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to the Fund \$50,000,000
16 for each fiscal year.

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