

115TH CONGRESS
2D SESSION

H. R. 6212

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2018

Mr. HIGGINS of Louisiana introduced the following bill; which was referred
to the Committee on Energy and Commerce

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. 810. 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 requirement under this Act,
15 each subsequent shipment of seafood from such
16 exporter shall be inspected and tested by the
17 Secretary, until 15 consecutive shipments by
18 such exporter pass that inspection 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 test re-
24 quirements under this Act during any 1-
25 year period, no shipments from such ex-

1 porter may be imported or offered for im-
2 port into the United States for the fol-
3 lowing 1-year period. Following such 1-
4 year period when no shipments may be so
5 imported or offered, such exporter shall
6 not be permitted to offer imports to the
7 United States unless the Secretary certifies
8 that such exporter is maintaining a pro-
9 gram using reliable analytical methods to
10 ensure compliance with the United States
11 standards for seafood manufacturing, proc-
12 essing, and holding.

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

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

1 to meet inspection or testing requirements
2 under this Act, all shipments of seafood from
3 such country shall be refused entry into the
4 United States until the Secretary makes a cer-
5 tification described under subsection (a).

6 “(D) PROCEDURES.—The testing and in-
7 spections procedures used under this paragraph
8 shall be carried out in accordance with section
9 801.

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

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

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

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

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

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

20 “(4) DESTRUCTION OF SHIPMENT.—If the Sec-
21 retary deems that a shipment rejected under para-
22 graph (1), if it had been allowed entry, could have
23 caused significant health risks if consumed by hu-
24 mans, the shipment shall be destroyed notwith-

1 standing the receipt of a notification under para-
2 graph (3).

3 “(5) NOTIFICATION TO PORTS OF ENTRY.—The
4 Secretary shall notify ports of entry not later than
5 5 days after a shipment described in paragraph
6 (1)—

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

10 “(B) was detained or destroyed.

11 “(d) PORTS OF ENTRY.—

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

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

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

1 “(A) was, on the day before the date of en-
2 actment of this section, a port of entry that ac-
3 cepted seafood imported or offered for import
4 into the United States; and

5 “(B) does not meet the requirements for
6 certification under paragraph (2),
7 the Secretary shall, as soon as practicable after the
8 date of enactment of this section, provide proper
9 personnel levels and training to enable such port to
10 be certified under paragraph (2).

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

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

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

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

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

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

3 “(ddd) Knowingly making a false statement with re-
4 spect to a test or inspection carried out under section 810,
5 or knowingly misbranding any seafood imported under
6 such section.”; and

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

9 “(h)(1) Any person who violates section 301(ddd)
10 shall be subject to a civil penalty in an amount not to
11 exceed \$250,000 for each such violation, and not to exceed
12 \$1,100,000 for all such violations after the second convic-
13 tion in any 3-year period.

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

18 **SEC. 3. COOPERATION WITH STATES TO CONDUCT INSPEC-**
19 **TIONS.**

20 Chapter VIII of the Federal Food, Drug, and Cos-
21 metic Act (21 U.S.C. 381 et seq.), as amended by section
22 2, is further amended by adding at the end the following:

1 **“SEC. 810A. COOPERATION WITH STATES TO CONDUCT SEA-**
2 **FOOD INSPECTIONS.**

3 “(a) ESTABLISHMENT OF COOPERATIVE INSPECTION
4 PROGRAM.—The Secretary may establish a program
5 under which a State may conduct inspection, testing, and
6 certification of seafood imported or offered for import into
7 the United States.

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

10 “(1) the Secretary shall—

11 “(A) provide training to State officials to
12 enable such officials to carry out inspection,
13 testing, and certification, in accordance with
14 Federal requirements and safety standards, of
15 seafood imported or offered for import into the
16 United States; and

17 “(B) certify such State officials as author-
18 ized agents of the Federal Government to carry
19 out such inspections, testing, and certification;
20 and

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

23 “(A) comply with all requirements of the
24 Secretary with respect to the training and cer-
25 tification of State officials described under
26 paragraph (1);

1 “(B) inspect, test, and certify, in accord-
2 ance with Federal requirements and safety
3 standards, seafood imported or offered for im-
4 port into the United States; and

5 “(C) carry out any other activities as de-
6 termined necessary by the Secretary to ensure
7 the safety of seafood imported or offered for
8 import into the United States.

9 “(c) GRANTS.—

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

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

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

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