

HOUSE BILL REPORT

HB 1200

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to labeling of seafood.

Brief Description: Concerning the labeling of seafood.

Sponsors: Representatives Blake, Wilcox, Takko, Lytton, Klippert, Van De Wege, Nealey, Stanford, Short and Smith.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/30/13, 2/6/13 [DPS].

Brief Summary of Substitute Bill

- Creates a system for the unlawful misbranding of food fish or shellfish.
- Delegates authority to the Washington State Department of Agriculture (WSDA) in consultation with the Washington Department of Fish and Wildlife to provide procedures for enforcing food fish and shellfish labeling and misbranding.
- Defines "food fish" and "shellfish" and clarifies the definition of "commercially caught."
- Establishes a system for identifying the common names for seafood.
- Allows the WSDA to develop an electronic pamphlet describing seafood labeling requirements.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Lytton, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Buys, Dunshee, Haigh, Hurst, Pettigrew, Schmick, Stanford and Warnick.

Staff: Cherlyn Walden (786-7296).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Misbranding.

A person is guilty of misbranding, if he or she knowingly:

- sells at wholesale or retail any fresh or frozen salmon food fish or cultured aquatic salmon without identifying the species of salmon by its common name to the buyer at the point of sale; or
- sells at wholesale or retail any fresh or frozen: private sector cultured aquatic salmon without identifying the product as farm-raised salmon; or commercially caught salmon designated as food fish without identifying the product as commercially caught salmon.

A person who receives misleading or erroneous information about the species of salmon or whether the salmon is farm-raised or commercially caught, and subsequently inaccurately identifies salmon is not guilty of misbranding.

Definitions.

"Commercially caught" means salmon harvested by commercial fishers.

Agency Authority.

The Washington State Department of Agriculture (WSDA) in consultation with the Washington Department of Fish and Wildlife (WDFW) must adopt rules establishing a definition and standard for identifying salmon offered for sale.

Pamphlet.

The WSDA is required to develop a pamphlet that generally describes seafood labeling requirements, which must also be provided to the WDFW.

Summary of Substitute Bill:

Misbranding.

The crime of misbranding is changed to include the following:

- the knowing sale or offer for sale at wholesale or retail any fresh, frozen, or processed food fish or shellfish without identifying for the buyer at the point of sale the species of food fish or shellfish by its common name;
- the knowing labeling or offer for sale of any food fish designated as halibut, with or without additional descriptive words, unless the food fish produce is *Hippoglossus hippoglossus* or *Hippoglossus stenolepis*; and
- the knowing sale or offer for sale at wholesale or retail any fresh, frozen, or processed salmon without identifying, as farm-raised salmon, private sector cultured aquatic salmon, or salmon product.

A person is guilty of unlawful misbranding of food fish or shellfish if he or she commits one of the above acts. The degree of the crime is determined by the fair market wholesale value of the misbranded food fish or shellfish.

Degree of the offense.	Fair market value of the misbranded food fish or shellfish.
Third Degree	Value of less than \$500.
Second Degree	Value of at least \$500, but less than \$5,000.
First Degree	Value of at least \$5,000.

Definitions.

"Food fish" is defined as fresh or saltwater finfish and other forms of aquatic animal life other than crustaceans, mollusks, birds, and mammals where the animal life is intended for human consumption. "Shellfish" is defined as crustaceans and all mollusks where the animal life is intended for human consumption. "Commercially caught" means wild or hatchery-raised salmon harvested in the wild by commercial fishers. The term does not apply to farmed fish raised exclusively by private sector aquaculture.

Agency Authority.

The Washington State Department of Agriculture (WSDA) in consultation with the Washington Department of Fish and Wildlife (WDFW) may establish and implement definitions and identification standards for species of food fish and shellfish that are sold for human consumption. If the common name for a species is not defined by the WSDA, then the common name or acceptable market name as provided by the United States Food and Drug Administration's publication "Seafood list - FDA's guide to acceptable market names for seafood sold in interstate commerce," as the publication existed on the effective date of state law may be used.

The WSDA in consultation with the WDFW may also provide procedures for enforcing food fish and shellfish labeling requirements and misbranding prohibitions.

Pamphlets.

The WSDA may develop an electronic pamphlet that describes the seafood labeling requirements, which should be provided to the WDFW and holder of any license associated with buying and selling fish or shellfish.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) provides that the fair market value of food fish and shellfish determines the degree of unlawful misbranding of food fish or shellfish rather than the wholesale value; (2) ranks the unlawful misbranding of food fish or shellfish in the first degree at seriousness level III; (3) clarifies that the use of additional language or trade names are not precluded as long as labeling requirements are met; (4) allows seafood to be labeled as the common name or the acceptable market name as defined by the United States Food and Drug Administration publication; (5) allows chum to be labeled as "chum" or "keta"; and (6) allows sockeye salmon to be labeled as "sockeye" or "red".

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The current seafood labeling laws are dated and need to be updated to address common concerns in the marketplace. Consumers should know what they are buying, and labeling standards ensure the consumer and the domestic commercial fishing industry is protected.

Mislabeled is linked to a larger scale of illegal activity, but the current penalty for mislabeling is a misdemeanor. Providing for higher criminal penalties provides enforcement with more tools against wrong-doers.

(Opposed) None.

Persons Testifying: Representative Blake, prime sponsor; Mike Cenci, Washington Department of Fish and Wildlife; Mark Streuli, Washington State Department of Agriculture; Jim Jesernig, Pacific Coast Shellfish Growers Association; and Dan Coyne, Northwest Food Processors Association.

Persons Signed In To Testify But Not Testifying: None.