

SENATE BILL REPORT

SB 5037

As Reported by Senate Committee On:
Natural Resources & Parks, February 7, 2013

Title: An act relating to labeling of seafood.

Brief Description: Concerning the labeling of seafood.

Sponsors: Senators Ranker, Shin and Rolfes.

Brief History:

Committee Activity: Natural Resources & Parks: 1/22/13, 2/07/13 [DPS].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5037 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pearson, Chair; Smith, Vice Chair; Hargrove, Hewitt, Kline, Parlette and Rolfes, Ranking Member.

Staff: Curt Gavigan (786-7437)

Background: Although there are approximately 1700 types of seafood on the market, very few standardized labeling requirements exist relating to seafood. The health benefits of eating seafood can vary greatly depending on the species of fish, whether the fish was wild-caught or farmed, and the country of origin of the fish. Common fish names may also be used for several species of fish. For example, the term halibut may properly be used to describe several species of flatfish. However, halibut is generally thought to describe *Hippoglossus hippoglossus* (Atlantic halibut) or *Hippoglossus stenolepis* (Pacific halibut).

Current federal regulations require retailers to notify customers with information regarding the source of seafood, including whether the fish was wild or farmed. State law requires salmon sold in the state to be identified by its species name and indicate whether it was farmed or commercially caught. It is unlawful to knowingly label fish designated as halibut without additional descriptive words, unless the food fish product is *Hippoglossus hipposglossus* or *Hippoglossus stenolepis*. Further, it is generally unlawful to misbrand a food for which a definition and standard of identity has been prescribed by regulation.

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.

A person who knowingly misbrands food as provided in law is guilty of a misdemeanor and subject to a fine of not more than \$200 for a first offense and \$500 or imprisonment up to 30 days for a subsequent offense. The Department of Agriculture (AGR) must develop a pamphlet describing seafood labeling requirements and provide copies to the Department of Fish and Wildlife (DFW) for distribution to seafood retailers.

Summary of Bill (Recommended Substitute): It is unlawful to knowingly sell or offer to sell at wholesale or retail any fresh, frozen, or processed food fish or shellfish without identifying for the buyer the species of food fish or shellfish by its common name. The common names for salmon species are provided in statute. The common names for all other food fish and shellfish are provided in rule by the Director of AGR (the director) or provided in the United State's Food and Drug Administration seafood list. The use of descriptive language or a trade name beyond the common name is not prohibited. Food fish and shellfish are defined.

It is unlawful to knowingly sell or offer to sell at wholesale or retail any fresh, frozen, or processed salmon without identifying the salmon as farm-raised, private sector cultured aquatic, or commercially caught.

The director, in consultation with DFW, may adopt rules as necessary to establish reasonable definitions and identification standards for species of food fish and shellfish that are sold for human consumption and provide procedures for enforcing food fish and shellfish labeling requirements and misbranding prohibitions.

A person is guilty of unlawful misbranding of food fish or shellfish in the third degree if the person misbrands food fish or shellfish with a fair market value of less than \$500; the person is guilty of misbranding in the second degree if the fair market value of the food fish or shellfish is at least \$500 but less than \$5,000; and the person is guilty of misbranding in the first degree if the fair market value of the food fish or shellfish is at least \$5,000.

The AGR may develop a pamphlet describing the labeling requirements for seafood and provide the pamphlet to DFW and holders of any license associated with buying or selling fish or shellfish via the web.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & PARKS COMMITTEE (Recommended Substitute):

- Adds statutory common names for two species of salmon.
- Expands the allowable species names that can be used from the federal seafood list for non-salmon food fish.
- Specifically authorizes the use of additional descriptive language or trade names in addition to the common name.
- Changes the basis for establishing the monetary value associated with a violation from wholesale value to market value.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill is an attempt to protect the consumer and ensure that penalties are commensurate with the potential profits from mislabeling. There is a great deal of noncompliance with food labeling, and there is a huge need to need to make sure people know what they are eating.

OTHER: There are industry concerns about being able to market products under trade names and the limiting nature of the federal seafood list.

Persons Testifying: PRO: Mike Censi, DFW; Ray Toste, WA Dungeness Crab Fishermen's Assn.; Kirk Robinson, AGR.

OTHER: Bill Dewey, Taylor Shellfish Farms; Craig Urness, Pacific Seafood Group.