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**SUBSTITUTE SENATE BILL 5037**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Natural Resources & Parks (originally sponsored by Senators Ranker, Shin, and Rolfes)

READ FIRST TIME 02/08/13.

1 AN ACT Relating to labeling of seafood; amending RCW 69.04.060,  
2 69.04.928, 69.04.932, 69.04.933, 69.04.934, and 69.04.935; adding a new  
3 section to chapter 69.04 RCW; repealing RCW 69.04.315; and prescribing  
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 69.04.060 and 2003 c 53 s 314 are each amended to read  
7 as follows:

8 Except as otherwise provided in this chapter, any person who  
9 violates any provision of RCW 69.04.040 is guilty of a misdemeanor and  
10 shall on conviction thereof be subject to the following penalties:

- 11 (1) A fine of not more than two hundred dollars; or  
12 (2) If the violation is committed after a conviction of such person  
13 under this section has become final, imprisonment for not more than  
14 thirty days, or a fine of not more than five hundred dollars, or both  
15 such imprisonment and fine.

16 **Sec. 2.** RCW 69.04.928 and 2002 c 301 s 11 are each amended to read  
17 as follows:

18 The department of agriculture (~~must~~) may:

1        (1) Develop a pamphlet that generally describes the labeling  
2 requirements for seafood((~~7~~)) as set forth in this chapter((~~7~~and));

3        (2) Provide ((~~an adequate quantity of~~)) to the department of fish  
4 and wildlife a website link to the pamphlet((~~s to the department of~~  
5 fish and wildlife to distribute with the issuance of a direct retail  
6 endorsement under RCW 77.65.510)); and

7        (3) Make the pamphlet available to holders of any license  
8 associated with buying and selling fish or shellfish under chapter  
9 77.65 RCW.

10        **Sec. 3.** RCW 69.04.932 and 1993 c 282 s 2 are each amended to read  
11 as follows:

12        ((~~Unless the context clearly requires otherwise,~~)) The definitions  
13 in this section apply throughout ((~~RCW 69.04.933 through 69.04.935~~))  
14 this chapter unless the context clearly requires otherwise.

15        (1) "Commercially caught" means wild or hatchery-raised salmon  
16 harvested in the wild by commercial fishers. The term does not apply  
17 to farmed fish raised exclusively by private sector aquaculture.

18        (2) "Food fish" means fresh or saltwater finfish and other forms of  
19 aquatic animal life other than crustaceans, mollusks, birds, and  
20 mammals where the animal life is intended for human consumption.

21        (3) "Salmon" means all species of the genus Oncorhynchus, except  
22 those classified as game fish in ((~~Title 77~~)) RCW 77.08.020, and  
23 includes:

24	SCIENTIFIC NAME	COMMON NAME
25	Oncorhynchus tshawytscha	Chinook salmon or king salmon
26	Oncorhynchus kisutch	Coho salmon or silver salmon
27	Oncorhynchus keta	Chum or "keta" salmon
28	Oncorhynchus gorbuscha	Pink salmon
29	Oncorhynchus nerka	Sockeye or "red" salmon
30	Salmo salar (in other than	Atlantic salmon
31	its landlocked form)	

32        ((~~(2) "Commercially caught" means salmon harvested by commercial~~  
33 fishers.)) (4) "Shellfish" means crustaceans and all mollusks where the  
34 animal life is intended for human consumption.

1       **Sec. 4.** RCW 69.04.933 and 1993 c 282 s 3 are each amended to read  
2 as follows:

3       ~~((With the exception of a commercial fisher engaged in sales of~~  
4 ~~fish to a fish buyer, no person may sell))~~ (1) It is unlawful to  
5 knowingly sell or offer for sale at wholesale or retail any fresh  
6 ~~((or)),~~ frozen ((salmon)), or processed food fish or ((cultured aquatic  
7 ~~salmon)) shellfish without identifying for the buyer at the point of~~  
8 sale the species of ((salmon)) food fish or shellfish by its common  
9 name ((to the buyer at the point of sale)), such that the buyer can  
10 make an informed purchasing decision ((in purchasing)) for his or her  
11 protection, health, and safety. ((A person knowingly violating this  
12 ~~section is guilty of misbranding under this chapter. A person who~~  
13 ~~receives misleading or erroneous information about the species of~~  
14 ~~salmon and subsequently inaccurately identifies salmon shall not be~~  
15 ~~guilty of misbranding. This section shall not apply to salmon that is~~  
16 ~~minced, pulverized, coated with batter, or breaded.))~~

17       (2) It is unlawful to knowingly label or offer for sale any food  
18 fish designated as halibut, with or without additional descriptive  
19 words, unless the food fish product is *Hippoglossus hippoglossus* or  
20 *Hippoglossus stenolepsis*.

21       (3) This section does not apply to salmon that is minced,  
22 pulverized, coated with batter, or breaded.

23       (4) This section does not apply to a commercial fisher properly  
24 licensed under chapter 77.65 RCW and engaged in sales of fish to a fish  
25 buyer.

26       (5) A violation of this section constitutes misbranding under  
27 section 7 of this act and is punishable as a misdemeanor, gross  
28 misdemeanor, or felony depending on the fair market value of the fish  
29 or shellfish involved in the violation.

30       (6)(a) The common names for salmon species are as listed in RCW  
31 69.04.932.

32       (b) The common names for all other food fish and shellfish are the  
33 common names for food fish and shellfish species as defined by rule of  
34 the director. If the common name for a species is not defined by rule  
35 of the director, then the common name is the acceptable market name or  
36 common name as provided in the United States food and drug  
37 administration's publication "Seafood list - FDA's guide to acceptable

1 market names for seafood sold in interstate commerce," as the  
2 publication existed on the effective date of this section.

3 (7) For the purposes of this section, "processed" means food fish  
4 or shellfish processed by heat for human consumption, such as food fish  
5 or shellfish that is kippered, smoked, boiled, canned, cleaned,  
6 portioned, or prepared for sale or attempted sale for human  
7 consumption.

8 (8) Nothing in this section precludes using additional descriptive  
9 language or trade names to describe food fish or shellfish as long as  
10 the labeling requirements in this section are met.

11 **Sec. 5.** RCW 69.04.934 and 2003 c 39 s 29 are each amended to read  
12 as follows:

13 ~~((With the exception of a commercial fisher engaged in sales of~~  
14 ~~fish to a fish buyer, no person may sell at wholesale or retail any~~  
15 ~~fresh or frozen\*))~~

16 (1) It is unlawful to knowingly sell or offer for sale at wholesale  
17 or retail any fresh, frozen, or processed salmon without identifying  
18 private sector cultured aquatic salmon ((without identifying the)) or  
19 salmon products as farm-raised salmon((~~+~~or  
20 (~~+~~)), or identifying commercially caught salmon ((~~designated as~~  
21 food fish under Title 77 RCW without identifying the)) or salmon  
22 products as commercially caught salmon.

23 (2) Identification of the products under subsection((s)) (1) ((and  
24 (~~+~~)) of this section ((shall)) must be made to the buyer at the point  
25 of sale such that the buyer can make an informed purchasing decision  
26 ((in purchasing)) for his or her protection, health, and safety.

27 (3) A ((person knowingly violating)) violation of this section ((is  
28 guilty of)) constitutes misbranding under ((this chapter. A person who  
29 receives misleading or erroneous information about whether the salmon  
30 is farm-raised or commercially caught, and subsequently inaccurately  
31 identifies salmon shall not be guilty of misbranding)) section 7 of

32 this act and is punishable as a misdemeanor, gross misdemeanor, or  
33 felony depending on the fair market value of the fish or shellfish  
34 involved in the violation.

35 (4) This section ((shall)) does not apply to salmon that is minced,  
36 pulverized, coated with batter, or breaded.

1       (5) This section does not apply to a commercial fisher properly  
2 licensed under chapter 77.65 RCW and lawfully engaged in the sale of  
3 fish to a fish buyer.

4       (6) Nothing in this section precludes using additional descriptive  
5 language or trade names to describe food fish or shellfish as long as  
6 the labeling requirements of this section are met.

7       **Sec. 6.** RCW 69.04.935 and 1994 c 264 s 39 are each amended to read  
8 as follows:

9       To promote honesty and fair dealing for consumers and to protect  
10 public health and safety, the director, in consultation with the  
11 director of the department of fish and wildlife, (~~shall~~) may adopt  
12 rules as necessary to:

13       (1) (~~Fixing and establishing~~) Establish and implement a  
14 reasonable definition and identification standard (~~of identity for~~  
15 ~~salmon for purposes of identifying and selling salmon~~) for species of  
16 food fish and shellfish that are sold for human consumption;

17       (2) (~~Enforcing RCW 69.04.933 and 69.04.934~~) Provide procedures  
18 for enforcing this chapter's food fish and shellfish labeling  
19 requirements and misbranding prohibitions.

20       NEW SECTION. **Sec. 7.** A new section is added to chapter 69.04 RCW  
21 to read as follows:

22       (1) A person is guilty of unlawful misbranding of food fish or  
23 shellfish in the third degree if the person commits an act that  
24 violates RCW 69.04.933 or 69.04.934, and the misbranding involves food  
25 fish or shellfish with a fair market value up to five hundred dollars.  
26 Unlawful misbranding of food fish or shellfish in the third degree is  
27 a misdemeanor.

28       (2) A person is guilty of unlawful misbranding of food fish or  
29 shellfish in the second degree if the person commits an act that  
30 violates RCW 69.04.933 or 69.04.934, and the misbranding involves food  
31 fish or shellfish with a fair market value of five hundred dollars or  
32 more, up to five thousand dollars. Unlawful misbranding of food fish  
33 or shellfish in the second degree is a gross misdemeanor.

34       (3) A person is guilty of unlawful misbranding of food fish or  
35 shellfish in the first degree if the person commits an act that  
36 violates RCW 69.04.933 or 69.04.934, and the misbranding involves food

1 fish or shellfish with a fair market value of five thousand dollars or  
2 more. Unlawful misbranding of food fish or shellfish in the first  
3 degree is a class C felony.

4 NEW SECTION. **Sec. 8.** RCW 69.04.315 (Halibut--Misbranding by  
5 failure to show proper name) and 1967 ex.s. c 79 s 1 are each repealed.

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