
SENATE BILL 5037

State of Washington

63rd Legislature

2013 Regular Session

By Senators Ranker, Shin, and Rolfes

Read first time 01/15/13. Referred to Committee on Natural Resources & Parks .

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 salmon |
| 28 | Oncorhynchus gorbuscha | Pink salmon |
| 29 | Oncorhynchus nerka | Sockeye 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.

28 (6)(a) The common names for salmon species are as listed in RCW
29 69.04.932.

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

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

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

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

11 (1) It is unlawful to knowingly sell or offer for sale at wholesale
12 or retail any fresh, frozen, or processed salmon without identifying,
13 as farm-raised salmon, private sector cultured aquatic salmon ((without
14 identifying the)) or salmon product ((as farm-raised salmon; or
15 (2)) or identifying, as commercially caught salmon, commercially
16 caught salmon ((designated as food fish under Title 77 RCW without
17 identifying the)) or salmon product ((as commercially caught salmon)).

18 (2) Identification of the products under subsection((s)) (1) ((and
19 (2)) of this section ((shall)) must be made to the buyer at the point
20 of sale such that the buyer can make an informed decision in
21 purchasing.

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

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

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

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

35 To promote honesty and fair dealing for consumers and to protect

1 public health and safety, the director, in consultation with the
2 director of the department of fish and wildlife, (~~shall~~) may adopt
3 rules as necessary to:

4 (1) (~~Fixing and establishing~~) Establish and implement a
5 reasonable definition and identification standard (~~of identity for~~
6 ~~salmon for purposes of identifying and selling salmon~~) for species of
7 food fish and shellfish that are sold for human consumption;

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

11 NEW SECTION. Sec. 7. A new section is added to chapter 69.04 RCW
12 to read as follows:

13 (1) A person is guilty of unlawful misbranding of food fish or
14 shellfish in the third degree if the person commits an act that
15 violates RCW 69.04.933 or 69.04.934, and the misbranding involves food
16 fish or shellfish with a wholesale value of less than five hundred
17 dollars. Unlawful misbranding of food fish or shellfish in the third
18 degree is a misdemeanor.

19 (2) A person is guilty of unlawful misbranding of food fish or
20 shellfish in the second degree if the person commits an act that
21 violates RCW 69.04.933 or 69.04.934, and the misbranding involves food
22 fish or shellfish with a wholesale value of at least five hundred
23 dollars, but less than five thousand dollars. Unlawful misbranding of
24 food fish or shellfish in the second degree is a gross misdemeanor.

25 (3) A person is guilty of unlawful misbranding of food fish or
26 shellfish in the first degree if the person commits an act that
27 violates RCW 69.04.933 or 69.04.934, and the misbranding involves food
28 fish or shellfish with a wholesale value of at least five thousand
29 dollars. Unlawful misbranding of food fish or shellfish in the first
30 degree is a class C felony.

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

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