

CHAPTER NO. 634

SENATE BILL NO. 2791

By Rochelle

Substituted for: House Bill No. 2121

By Bone, Baird, Walker

AN ACT To amend Tennessee Code Annotated, Title 53, relative to the labeling of certain seafood products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 53-1-102, is amended by adding the following new, appropriately designated subdivisions:

() "Catfish" means any species within the family *Ictaluridae* or the family *Anarchichadidae*;

() "Catfish product" means any product capable of use as human food that is made wholly or in part from any catfish or portion thereof, except products that contain catfish only in small proportions or historically have not been, in the judgment of the commissioner, considered by consumers as products of the United States commercial catfish industry and that are exempted from definition as a catfish product by the commissioner under such conditions as the commissioner may prescribe to assure that the catfish or portions thereof contained therein are not adulterated and that the products are not represented as catfish products;

() "Imported catfish" means catfish that is produced in a nation other than the United States of America, either according to the usual and customary techniques of aquaculture or in the freshwater lakes, rivers or streams or the marine or estuarine waters of such foreign nation;

() "Imported catfish product" means any product capable of use as human food that is made, wholly or in part, from any imported catfish or portion thereof;

SECTION 2. Tennessee Code Annotated, Title 53, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 53-1-1___. (a)(1) The term "catfish" shall not be used as a common name or brand name or used to advertise, distribute, or label any fish or fish product except for those species within the definition of catfish set out in §53-1-102.

(2) It is a violation of this section to use the term "catfish" in the advertisement, distribution, processing, labeling, or wholesale or retail sale of any of those species within the family of *Siluridae*, *Clariidae* and *Pangasiidae* or any other species of fish not included within the definition of catfish set out in §53-1-102.

(b) The provisions of this section shall apply only to the advertisement, distribution, processing, labeling, or wholesale or retail sale of:

(1) unprepared or packaged imported catfish and imported catfish products; and

(2) unprepared or packaged fish and fish products described in subsection (b).

(c) The commissioner shall enforce the requirements of this section and is authorized to promulgate rules and regulations pursuant to Title 4, Chapter 5, to implement the provisions of this section.

(d) In the event of a violation of this section, the commissioner is authorized to:

(1) Order the processor, distributor, wholesaler or retailer to cease the distribution or sale of imported catfish or imported catfish products that are not labeled or are labeled in violation of this section;

(2) Order the processor, distributor, wholesaler or retailer to cease the advertisement, distribution, labeling or sale of all other fish or fish products that are being advertised, distributed, labeled or sold in violation of this section;

(3) Seek injunctive relief to stop practices that are in violation of this section; and

(4) Order the processor, distributor, wholesaler or retailer to comply with the provisions of this section or any rule or regulation promulgated pursuant thereto.

(e) Any person who violates the provisions of this section shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. Each day of continued violation constitutes a separate violation.

(f) Any person aggrieved by an order or civil penalty imposed by the commissioner shall be entitled to a hearing in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 3. This act shall take effect July 1, 2002, the public welfare requiring it.

PASSED: April 3, 2002


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this day of 2002

DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had Senate Bill No. 2791 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.