

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1163 Session of
2013

INTRODUCED BY SOLOBAY, BREWSTER, RAFFERTY, GREENLEAF, ALLOWAY
AND HUGHES, NOVEMBER 12, 2013

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, NOVEMBER 12, 2013

AN ACT

1 Providing for seafood labeling; imposing duties on the
2 Department of Agriculture; and providing for penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Seafood
7 Labeling Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Caught wild." Any species of seafood that is:

13 (1) caught in the wild; and

14 (2) either:

15 (i) hatchery-raised; or

16 (ii) raised in the wild.

17 "Department." The Department of Agriculture of the
18 Commonwealth.

1 "Farm-raised." Any species of seafood that is propagated and
2 raised in a controlled environment.

3 "Fund." The Seafood Labeling Inspection Fund established in
4 section 7.

5 "Hatchery-raised." Any species of seafood that is raised in
6 a controlled environment and released into the wild.

7 "Licensor." As the term is defined in 3 Pa.C.S. § 5702
8 (relating to definitions).

9 "Net-pen aquacultural." Any species of seafood that is
10 propagated and raised in a confined area within a natural body
11 of water. This term is limited to such confined areas that lack
12 a controlled environment.

13 "Raised." Any species of seafood that is hatchery-raised,
14 farm-raised or net-pen aquacultural.

15 "Retail food facility." A retail food facility, as defined
16 in 3 Pa.C.S. § 5702 (relating to definitions), that offers for
17 sale at retail food containing seafood for human consumption.

18 "Seafood." Any fish or shellfish that is caught wild or
19 raised for human consumption. This term includes a fillet,
20 steak, nugget and any other flesh from fish or shellfish, even
21 if the fish or shellfish is processed, breaded and battered.

22 Section 3. Seafood labeling.

23 (a) General rule.--Notwithstanding any other provision of
24 law, except as provided in subsection (b), a retail food
25 facility that offers or sells seafood or food containing seafood
26 as a menu item or that offers seafood for sale shall identify
27 the following information on a display, brochure or a menu
28 insert that is readily available to the consumer:

29 (1) The scientific common name of each species of
30 seafood that is contained in each menu food item or that is

1 offered for sale.

2 (2) A statement whether the seafood was caught wild or
3 raised.

4 (3) The country in which the seafood was raised or where
5 the seafood was caught wild.

6 (b) Drive-through areas.--

7 (1) Notwithstanding any other provision of law, a retail
8 food facility that has a drive-through area and uses a menu
9 board to display or list items within the drive-through area
10 at the point of sale shall disclose for any seafood item
11 offered for sale on the menu board a statement on the menu
12 board that reads as the following or other similar statement:

13 "Information regarding the species of seafood, whether it
14 was raised or caught wild, and the country where it was
15 raised or caught wild is available upon request."

16 (2) When requested by the customer under paragraph (1),
17 the retail food facility shall provide the customer with a
18 brochure or other document containing the information
19 required under subsection (a)(1).

20 Section 4. Enforcement.

21 (a) General rule.--The department shall enforce the
22 provisions of this act for retail food facilities that are under
23 the department's jurisdiction under 3 Pa.C.S. Ch. 57 (relating
24 to food protection) and for any other retail food facility not
25 covered by 3 Pa.C.S. Ch. 57.

26 (b) Nondepartment enforcement.--A licensor that is not the
27 department shall enforce the provisions of this act for those
28 retail food facilities licensed by the licensor that is not the
29 department.

30 Section 5. Fees.

1 (a) General rule.--The licensor may charge a fee for the
2 purpose of funding the enforcement of this act.

3 (b) Nondepartment fees.--

4 (1) The fees that may be charged by a licensor that is
5 not the department are as established by the licensor, except
6 that the fee shall not exceed \$50 per inspection.

7 (2) The fees shall be paid to the city, borough,
8 incorporated town, township or county treasury and shall be
9 used for conducting inspections in compliance with this act.

10 (c) Inspection fee.--

11 (1) The fees that may be charged by the department shall
12 not exceed \$50 per inspection.

13 (2) The fees shall be paid to the fund and shall be used
14 by the department for conducting inspections in compliance
15 with this act.

16 Section 6. Penalties.

17 (a) General rule.--For retail food facilities under the
18 jurisdiction of the department:

19 (1) A person that violates any provision of this act or
20 any rule, regulation or order made under this act commits a
21 summary offense for the first or second offense and shall be
22 subject to a fine of not less than \$100 nor more than \$300.

23 (2) A person that violates any provision of this act or
24 any rule, regulation or order made under this act commits a
25 summary offense for the third or subsequent offense within
26 two years of the date of the previous offense and shall be
27 subject to a fine of not less than \$300 nor more than \$1,000.
28 All fines collected under this subsection shall be paid into
29 the fund and shall be used by the department for conducting
30 inspections in compliance with this act.

1 (b) Nondepartment penalties.--For retail food facilities
2 under a licensor that is not the department, the penalties shall
3 be established by the licensor that is not the department except
4 that the penalties shall not exceed the amounts contained in
5 subsection (a). All fines collected under this subsection shall
6 be used by the licensor for conducting inspections in compliance
7 with this act.

8 (c) False information.--A retail food facility shall not be
9 liable for a violation of this act if the food retail facility
10 was provided false or inaccurate information from the
11 wholesaler, seafood distributor or other entity that provides
12 the retail food facility with the seafood.

13 Section 7. Fund.

14 (a) Establishment.--

15 (1) There is established a special fund to be known as
16 the Seafood Labeling Inspection Fund.

17 (2) The fund shall be maintained as a separate fund in
18 the State Treasury, subject to the procedures and provisions
19 set forth in this act.

20 (b) Sources.--The sources of the fund are:

21 (1) Fees imposed by the department under section 5(a)
22 and (c).

23 (2) Fines imposed under section 6(a).

24 (3) Interest on money in the fund.

25 Section 8. Regulations.

26 The department shall promulgate rules and regulations
27 necessary for the implementation of this act.

28 Section 9. Effective date.

29 This act shall take effect as follows:

30 (1) Section 8 shall take effect immediately.

1 (2) The remainder of this act shall take effect in 180
2 days.