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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R.

To strengthen Federal consumer protection and product traceability with respect to commercially marketed seafood, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. FARENTHOLD (for himself and Mr. LYNCH) introduced the following bill; which was referred to the Committee on _____

A BILL

To strengthen Federal consumer protection and product traceability with respect to commercially marketed seafood, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Honest
5 Fishermen Act of 2015”.

6 **SEC. 2. SEAFOOD SAFETY.**

7 (a) COORDINATION.—

1 (1) NATIONAL SEA GRANT COLLEGE PRO-
2 GRAM.—The Administrator of the National Oceanic
3 and Atmospheric Administration shall ensure that
4 the Administration’s seafood inspection activities are
5 coordinated with the national sea grant college pro-
6 gram to provide outreach to the States, local health
7 agencies, consumers, and the seafood industry on
8 seafood safety.

9 (2) INSPECTING TO PREVENT SEAFOOD
10 FRAUD.—The Secretary of Commerce and the Sec-
11 retary of Health and Human Services shall, to the
12 maximum extent practicable, ensure that inspections
13 and tests for seafood safety also collect information
14 for seafood fraud detection and prevention.

15 (b) LIST OF OFFENDERS.—The Secretary of Health
16 and Human Services, in consultation with the Secretary
17 of Commerce, shall develop, maintain, and post on the
18 public website of the Department of Health and Human
19 Services a list that—

20 (1) includes, by country, each exporter whose
21 seafood is imported or offered for import into the
22 United States; and

23 (2) for each such exporter, tracks the timing,
24 type, and frequency of violations of Federal law re-
25 lating to seafood safety.

1 (c) IMPACT ON EXISTING FOOD SAFETY AUTHOR-
2 ITY.—Nothing in this section limits the authority of the
3 Secretary of Health and Human Services to execute or
4 enforce food safety laws, including the FDA Food Safety
5 Modernization Act (Public Law 111–353).

6 **SEC. 3. SEAFOOD IDENTIFICATION.**

7 (a) SEAFOOD TRACEABILITY REQUIREMENTS.—

8 (1) IN GENERAL.—Beginning not later than the
9 end of calendar year 2017, the Secretary of Com-
10 merce, in consultation with the Secretaries of Health
11 and Human Services and Homeland Security, shall
12 implement the following requirements with respect
13 to seafood imported into the United States or other-
14 wise distributed or offered for sale in interstate com-
15 merce:

16 (A) In addition to disclosure of the United
17 Nations Food and Agriculture Organization
18 Major Fishing Area, or a more specific location,
19 in which the fish was caught, and of the infor-
20 mation required to be submitted to the Sec-
21 retary of Commerce under section 303(a)(5) of
22 the Magnuson-Stevens Fishery Conservation
23 and Management Act (16 U.S.C. 1853(a)(5)),
24 at a minimum the following information shall
25 be displayed on the packaging of, or otherwise

1 accompany, seafood through processing, dis-
2 tribution, and final sale:

3 (i) The acceptable market name (as
4 determined by the Food and Drug Admin-
5 istration) and scientific name for the sea-
6 food species.

7 (ii) Whether the seafood was har-
8 vested wild or was farm-raised.

9 (iii) The method of harvest of the sea-
10 food including gear type as listed in section
11 600.725 of title 50, Code of Federal Regu-
12 lations and defined in section 600.10 of
13 such title.

14 (iv) The date of the catch.

15 (v) The weight or number, as appro-
16 priate, of product for an individual fish or
17 lot.

18 (B) If seafood has been previously frozen,
19 treated with any substance (other than ice or
20 water) that may affect the true weight of the
21 seafood, or processed in a country other than
22 that in which it was landed or harvested, by
23 any harvester, processor, distributor, or retailer,
24 such information shall be included in the label-

1 ing of, or otherwise accompany, the seafood
2 through processing, distribution, and final sale.

3 (C) If the seafood was farm-raised, that in-
4 formation, along with information regarding the
5 country of cultivation, the location of the aqua-
6 culture production area, and the method of cul-
7 tivation, shall be included in the labeling of, or
8 otherwise accompany, the seafood through proc-
9 essing, distribution, and final sale.

10 (D) No importer, processor, distributor, or
11 retailer may be found to be in violation of the
12 requirements under this subsection for unknow-
13 ingly selling a product that was already mis-
14 labeled upon receipt, provided that the im-
15 porter, processor, distributor, or retailer can
16 provide the required product traceability docu-
17 mentation.

18 (2) ALTERNATIVE MEANS OF DISCLOSURE FOR
19 CERTAIN CATEGORIES OF INFORMATION.—

20 (A) IN GENERAL.—Notwithstanding para-
21 graph (1), instead of including any category of
22 information described in subparagraph (B) in
23 the packaging or labeling of seafood, an im-
24 porter, processor, distributor, or retailer (in-
25 cluding a restaurant) may, with respect to such

1 category, choose to satisfy the requirements of
2 this paragraph by making the information
3 available upon request to any Federal, State, or
4 local official authorized to conduct inspections
5 of—

6 (i) seafood; or

7 (ii) any facility that processes or sells
8 seafood.

9 (B) CATEGORIES.—The categories of infor-
10 mation described in this subparagraph are—

11 (i) the information required to be sub-
12 mitted to the Secretary of Commerce
13 under section 303(a)(5) of the Magnuson-
14 Stevens Fishery Conservation and Manage-
15 ment Act (16 U.S.C. 1853(a)(5));

16 (ii) if the seafood was farm-raised, the
17 location of the aquaculture production
18 area, and the method of cultivation;

19 (iii) the date of the catch; and

20 (iv) the weight or number, as appro-
21 priate, of product for an individual fish or
22 lot.

23 (3) DOMESTIC FISHERMEN.—Disclosure of data
24 pursuant to section 303(a)(5) of the Magnuson-Ste-
25 vens Fishery Conservation and Management Act (16

1 U.S.C. 1853(a)(5)) by a person engaging in fishing
2 on a vessel of the United States in the exclusive eco-
3 nomic zone (as those terms are used in that Act) is
4 deemed to be compliance by such person with the re-
5 quirements implemented under paragraph (1) of this
6 subsection.

7 (b) REFUSAL OF ADMISSION.—

8 (1) IN GENERAL.—Subject to paragraphs (3)
9 and (4), all seafood imported or offered for import
10 originating from an exporter shall be refused admis-
11 sion if—

12 (A) the Secretary of Commerce finds that
13 any shipment of such seafood appears to be in
14 violation of subsection (a); or

15 (B) the Secretary of Health and Human
16 Services finds that any shipment of such sea-
17 food appears to be in violation of this Act or
18 other applicable Federal laws or regulations.

19 (2) IMPORT CERTIFICATION.—For any exporter
20 whose seafood products are refused admission under
21 paragraph (1) based on a prior shipment, the Sec-
22 retary of Health and Human Services shall deter-
23 mine whether to require, as a condition of granting
24 admission into the United States to an article of
25 seafood originating from such exporter, that such

1 seafood be accompanied by a certification or other
2 assurance under section 801(q) of the Federal Food,
3 Drug, and Cosmetic Act (21 U.S.C. 381(q)).

4 (3) ALLOWANCE OF INDIVIDUAL SHIPMENTS.—
5 Paragraph (1) does not apply with respect to an in-
6 dividual shipment of seafood originating from an ex-
7 porter whose products must otherwise be refused ad-
8 mission under such paragraph if the exporter pre-
9 sents evidence to the Secretary of Health and
10 Human Services or the Secretary of Commerce from
11 a laboratory accredited under section 422 of the
12 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
13 350k), or other equivalent evidence, documenting
14 that the shipment is in compliance with the provi-
15 sions of subsection (a) and other applicable Federal
16 laws or regulations prohibiting seafood fraud.

17 (4) TERMINATION OF INDIVIDUAL SHIPMENT
18 SCREENING REQUIREMENT.—Paragraph (1) shall
19 cease to prohibit the admission of seafood origi-
20 nating from an exporter based on a prior shipment
21 if the Secretary of Health and Human Services or
22 the Secretary of Commerce determines that—

23 (A) each prior shipment whose appearance
24 triggered the application of such paragraph was
25 in fact in compliance with the provisions of sub-

1 section (a) and other applicable Federal laws or
2 regulations, including those prohibiting seafood
3 fraud; or

4 (B) during the preceding 12 months, no
5 shipment of seafood originating from the ex-
6 porter has triggered the application of para-
7 graph (1).

8 (c) PENALTIES.—The Secretary of Commerce shall
9 prevent any person from violating this Act, or any Act to
10 which this section applies, in the same manner, by the
11 same means, and with the same jurisdiction, powers, and
12 duties as though sections 308 through 311 of the Magnu-
13 son-Stevens Fishery Conservation and Management Act
14 (16 U.S.C. 1858 through 1861) were incorporated into
15 and made a part of and applicable to this Act.

16 (d) LIST OF OFFENDERS.—The Secretary of Com-
17 merce, in consultation with the Secretary of Health and
18 Human Services, shall develop, maintain, and post on the
19 public website of the Department of Commerce a list
20 that—

21 (1) includes, by country, each exporter whose
22 seafood is imported or offered for import into the
23 United States; and

1 (2) for each such exporter, tracks the timing,
2 type, and frequency of violations of Federal law re-
3 lating to seafood fraud.

4 (e) INSPECTIONS.—The Secretary of Commerce, in
5 consultation with the Secretary of Health and Human
6 Services, shall—

7 (1) increase, as resources allow, the number of
8 foreign and domestic seafood shipments that are in-
9 spected for seafood fraud by National Oceanic and
10 Atmospheric Administration inspectors and author-
11 ized officers, including verification of compliance
12 with the traceability requirements of subsection (a);

13 (2) ensure that the percentage of seafood ship-
14 ments inspected during a given year is not lower
15 than the percentage inspected during the previous
16 year; and

17 (3) to the maximum extent practicable, ensure
18 that inspections and tests for seafood fraud preven-
19 tion also collect information to support the Secretary
20 of Health and Human Services in implementing the
21 seafood safety requirements of the FDA Food Safety
22 Modernization Act (Public Law 111–353).

23 (f) IMPACT ON EXISTING FOOD SAFETY AUTHOR-
24 ITY.—Nothing in this section shall be construed to limit
25 the authority of the Secretary of Health and Human Serv-

1 ices to execute or enforce food safety laws or regulations
2 that may be adopted pursuant to the FDA Food Safety
3 Modernization Act (Public Law 111–353).

4 **SEC. 4. AUTHORITY OF STATES.**

5 Whenever the attorney general of a State, or an offi-
6 cial or agency designated by a State, has reason to believe
7 that any person has engaged or is engaging in a pattern
8 or practice of seafood fraud in violation of subsection (a)
9 or (b) of section 3, the State may bring a civil action on
10 behalf of its residents to enjoin fraud, an action to recover
11 for actual monetary loss or receive \$10,000 in damages
12 for each violation, or both such actions. If the court finds
13 the defendant willfully or knowingly violated this Act, the
14 court may, in its discretion, increase the amount of the
15 award to an amount equal to not more than 3 times the
16 amount available under the preceding sentence. Nothing
17 in this section shall preclude an individual from bringing
18 a civil action.

19 **SEC. 5. PREEMPTION.**

20 Nothing in this Act preempts the authority of a State
21 to establish and enforce requirements for improving sea-
22 food safety and preventing seafood fraud that are con-
23 sistent with the requirements of this Act.

24 **SEC. 6. DEFINITIONS.**

25 In this Act:

1 (1) The term “other applicable Federal laws
2 and regulations” means Federal statutes, regula-
3 tions, and international agreements (other than this
4 Act) pertaining to the importation, exportation,
5 transportation, sale, harvest, processing, or trade of
6 seafood, including the Magnuson-Stevens Fishery
7 Conservation and Management Act (16 U.S.C. 1801
8 et seq.), the Lacey Act Amendments of 1981 (16
9 U.S.C. 3371 et seq.), the Federal Food, Drug, and
10 Cosmetic Act (21 U.S.C. 301 et seq.), the FDA
11 Food Safety Modernization Act (Public Law 111–
12 353), the Fair Packaging and Labeling Act (15
13 U.S.C. 1451 et seq.), subtitle D of the Agricultural
14 Marketing Act of 1946 (7 U.S.C. 1638 et seq.),
15 parts 60 and 65 of title 7, Code of Federal Regula-
16 tions (or any successor regulations), and part 123 of
17 title 21, Code of Federal Regulations (or any suc-
18 cessor regulations).

19 (2) The term “seafood” means finfish, mol-
20 lusks, crustaceans, and all other forms of marine
21 animal and plant life other than marine mammals
22 and birds.

23 (3) The term “seafood fraud” means the
24 mislabeling or misrepresentation of the information

1 required under this Act or other applicable Federal
2 laws and regulations.