

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 1687

"TO ALLOW THE STATE PLANT BOARD TO ENFORCE LAWS ON THE SALE AND
MARKETING OF FOREIGN FISH AND TO CLARIFY THE DEFINITION OF CATFISH IN
MARKETING CATFISH PRODUCTS AND IN RESTAURANTS."

Amendment No. 1 to House Bill No. 1687.

Amend House Bill No. 1687 as originally introduced:

Page 3, line 1, delete "civil and criminal" and substitute "~~eriminal~~ civil"

AND

Page 3, delete lines 15 through 25, and substitute the following:

"(A) Not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) for a first violation.

(B) Not less than four hundred dollars (\$400) nor more than six hundred dollars (\$600) for a second violation within three (3) years after the date of the first violation, and

(C) Not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) for a third violation within three (3) years after the date of the first violation.

(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a requirement enumerated in subsection (a) and subdivision (b)(1) and (b)(2) of this section."

AND

Page 4, delete lines 4 through 6

AND

Page 4, delete line 20, and substitute the following:
"excluded.

SECTION 4. Arkansas Code § 20-61-203 is amended to read as follows:
20-61-203. Penalties - Injunction.

(a)(1)(A) Any person who violates any provision of this subchapter for which no other civil penalty is provided by this subchapter shall upon



conviction be subject to a fine of not more than five hundred dollars (\$500).

(B) However, no person shall be subject to penalties under this section for receiving for transportation any article in violation of this subchapter if the receipt was made in good faith unless the person refuses to furnish, on request of a representative of the Director of the Arkansas Bureau of Standards, the name and address of the person from whom he or she received the article and copies of all documents, if there are any, pertaining to the delivery of the article to him or her.

(2) All distributors, processors, wholesalers, or retailers who are distributing or selling those species of fish as catfish that are not within the definition of "catfish" under § 20-61-202 shall be in violation of this subchapter and shall be assessed a civil penalty of:

(A) Not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for a first violation;

(B) Not less than eight hundred dollars (\$800) nor more than two thousand dollars (\$2,000) for a second violation within three (3) years after the date of the first violation; and

(C) Not less than one thousand five hundred dollars (\$1,500) nor more than two thousand five hundred dollars (\$2,500) for a third violation within three (3) years after the date of the first violation.

(3) For a violation to be considered as a second or subsequent offense, it must be a repeat of the violation in subdivision (a)(2) of this section.

(4)(A) Any person subject to a civil penalty shall have a right to request an administrative hearing within ten (10) calendar days after receipt of the notice of the penalty.

(B) The board is authorized to conduct the hearing after giving appropriate notice and its decision shall be subject to judicial review.

(5)(A) If a violator has exhausted the administrative appeals and the civil penalty is upheld, the violator shall pay the civil penalty within twenty (20) calendar days after the date of the final decision.

(B) If the violator fails to pay the penalty, a civil action may be brought by the board in any court of competent jurisdiction to recover the penalty.

(C) Any civil penalty collected under this section shall be transmitted to the State Plant Board Fund.

(b) Nothing in this subchapter shall be construed as requiring the director to report for prosecution or for the institution of libel or injunction proceedings any minor violations of this subchapter whenever he or she believes that the public interest will be adequately served by a suitable written notice of warning.

(c)(1) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(2) Before the director reports a violation for prosecution, an opportunity shall be given the distributor or other affected person to present his or her views to the director.

(d) The director is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this subchapter or any rule or regulation promulgated under this subchapter, notwithstanding the existence

of other remedies at law. The injunction shall be issued without bond.”

AND

Page 4, line 22, delete “SECTION 4.” and substitute “SECTION 5.”

The Amendment was read _____
By: Representative Rankin
EAN/VJF - 022820030944
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Chief Clerk