

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 1687

4  
5 By: Representative Rankin  
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## For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE BUREAU OF STANDARDS OF  
10 THE STATE PLANT BOARD TO ENFORCE LAWS ON THE SALE  
11 AND MARKETING OF FOREIGN FISH; TO CLARIFY THE  
12 DEFINITION OF CATFISH IN MARKETING CATFISH  
13 PRODUCTS AND IN RESTAURANTS; AND FOR OTHER  
14 PURPOSES.

## Subtitle

15  
16 TO ALLOW THE STATE PLANT BOARD TO  
17 ENFORCE LAWS ON THE SALE AND MARKETING  
18 OF FOREIGN FISH AND TO CLARIFY THE  
19 DEFINITION OF CATFISH IN MARKETING  
20 CATFISH PRODUCTS AND IN RESTAURANTS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 20-61-101 is amended to read as follows:

27 20-61-101. Foreign fish.

28 (a) No fresh, cold storage, or frozen fish produced outside this state  
29 or in any foreign country and imported into the United States shall be sold  
30 or offered for sale in this state by any food establishment unless:

31 (1) The package or container containing the food bears a  
32 statement in writing naming thereon the country of origin, the date of  
33 packaging, and the common name of all fish contained therein; and

34 (2) The fish has been packaged and processed under sanitary  
35 conditions equal to the standards required by the laws and regulations of  
36 this state for fish processing plants.



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1 (b)(1) Outlets serving cooked, fresh, cold storage, or frozen fish at  
 2 retail which display on the menu or in some conspicuous public place in the  
 3 outlet the identity of the country of origin and the common name of all fish  
 4 as reflected on the menu or sold in the outlet shall be deemed as having  
 5 satisfied the requirements of subdivision (a)(1) of this section.

6 (2) All suppliers of any fresh, cold storage, or frozen fish  
 7 shall furnish to the distributor or retailer to which the products are sold  
 8 in this state an affidavit that all products are properly labeled, as  
 9 required in this section, with respect to the country of origin of and the  
 10 contents of any foreign imported fish. This affidavit shall include a  
 11 certificate that the supplier has caused each of the products to be properly  
 12 labeled in conformance with the requirements of this section.

13 (3)(A) The Director and enforcement personnel of the Arkansas  
 14 Bureau of Standards of the State Plant Board are authorized to enforce the  
 15 requirements of subsection (a) and subdivisions (b)(1) and (b)(2) of this  
 16 section.

17 (B) The director is authorized to promulgate rules and  
 18 regulations necessary to enforce subsection (a) and subdivisions (b)(1) and  
 19 (b)(2) of this section.

20 ~~(3)~~(4) In addition, all suppliers of any fresh, cold storage, or  
 21 frozen fish shall furnish to any distributor or retailer to which the product  
 22 is sold in this state proof that the fish has been packaged and processed  
 23 under sanitary conditions equal to the sanitary conditions required of fish  
 24 processing plants in this state. The proof may be upon certification by the  
 25 Department of Health or certification by the United States Food and Drug  
 26 Administration or other appropriate federal agency that the processing plant  
 27 in which the fish was packaged or processed meets sanitary conditions within  
 28 at least the minimum requirements of the laws and regulations of this state  
 29 for fish processing plants, or proof may be upon the certification of the  
 30 supplier that the fish packaged or processed outside this state, or in a  
 31 foreign country, was packaged or processed in a fish processing plant that  
 32 meets at least the minimum requirements of the laws and regulations of this  
 33 state for sanitary conditions for fish processing plants.

34 (c) Any supplier of fresh, cold storage, or frozen fish or any  
 35 distributor or retailer who sells any fish in this state in violation of the  
 36 provisions of this section shall each be individually and severally subject

1 to the civil and criminal penalties as provided in subsection (d) of this  
2 section.

3 ~~(d)(1) Violations of the provisions of this section shall be~~  
4 ~~punishable for a first offense by a fine of not less than twenty five dollars~~  
5 ~~(\$25.00) nor more than one hundred dollars (\$100) or by imprisonment in the~~  
6 ~~county jail for a period not exceeding thirty (30) days.~~

7 ~~(2) Subsequent violations of this section shall be punishable by~~  
8 ~~a fine of not less than one hundred dollars (\$100) nor more than five hundred~~  
9 ~~dollars (\$500) or by imprisonment in the county jail for not more than ninety~~  
10 ~~(90) days, or by both fine and imprisonment.~~

11 ~~(3) Each separate violation of the provisions of this section~~  
12 ~~shall constitute a separate offense and shall be punishable accordingly.~~

13 (d)(1) A violator of this section shall be assessed by the State Plant  
14 Board a civil penalty of:

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

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

20 (C) Not less than one thousand five hundred dollars  
21 (\$1,500) nor more than two thousand five hundred dollars (\$2,500) for a third  
22 violation within three (3) years after the date of the first violation.

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

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

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

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

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

1 recover the penalty.

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

4 (5) Any person who intentionally violates any of the provisions  
5 of subsection (a), or subdivision (b)(1) or (b)(2) of this section shall be  
6 guilty of a Class A misdemeanor.

7 (e) The provisions of this section shall not be applicable to  
8 shellfish.

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10 SECTION 2. Arkansas Code § 20-61-202(2), concerning the definitions  
11 under the Arkansas Catfish Marketing Act, is amended to read as follows:

12 (2) "Catfish" means any species ~~of the scientific order, Siluriformes,~~  
13 ~~or family, Anarhichadidae~~ of the scientific family Ictaluridae;

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15 SECTION 3. Arkansas Code § 20-61-202(14), concerning the definitions  
16 under the Arkansas Catfish Marketing Act, is amended to read as follows:

17 (14) "Retailer" means any person offering for sale catfish products to  
18 individual consumers and representing the last sale prior to human  
19 consumption ~~except that restaurants and other eating establishments are~~  
20 ~~excluded.~~

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22 SECTION 4. Arkansas Code § 20-61-302 is amended to read as follows:  
23 20-61-302. Identification required.

24 (a) No catfish product shall be offered for direct retail sale for  
25 human consumption by a restaurant or other eating establishment unless the  
26 catfish product name is identified on the menu in the following manner:

27 (1) "Farm-Raised Catfish", if the product has been specifically  
28 produced in fresh water according to the usual and customary techniques of  
29 commercial aquaculture;

30 (2) "River or Lake Catfish", if the product has been produced in  
31 any freshwater lake, river, or stream of the state but has not been produced  
32 according to the usual and customary techniques of commercial aquaculture;

33 (3) "Imported Catfish", if the catfish product is produced from  
34 fresh water, either according to the usual and customary techniques of  
35 aquaculture, in or from freshwater lakes, rivers, or streams of a country  
36 other than the United States; and

1           (4) "Ocean Catfish", if the catfish product is produced from  
2 marine or estuarine waters.

3           (b)(1) Restaurants serving multiple entrees from multiple sources may  
4 make a general disclosure of sources upon the menu and shall not be required  
5 to disclose the source of each entree. The disclosure shall contain these  
6 words: "Upon request of the customer, the origin of each entree will be  
7 disclosed".

8           (2) Upon request of the customer, the specific source shall be  
9 disclosed.

10          (c) As used in this subchapter, "catfish" means the same as defined  
11 under the Arkansas Catfish Marketing Act, §§ 20-61-201 through 20-61-209.

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