

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/17/15

A Bill

HOUSE BILL 1854

5 By: Representative M.J. Gray
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For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS PERTAINING TO THE MARKETING,
9 LABELING, AND IDENTIFICATION OF CATFISH AND CATFISH-
10 LIKE SPECIES AND PRODUCTS; AND FOR OTHER PURPOSES.
11

Subtitle

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14 TO AMEND THE LAWS PERTAINING TO THE
15 MARKETING, LABELING, AND IDENTIFICATION
16 OF CATFISH AND CATFISH-LIKE SPECIES AND
17 PRODUCTS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 *SECTION 1. Arkansas Code § 20-61-202 is amended to read as follows:*

23 *20-61-202. Definitions.*

24 *As used in this subchapter, unless the context otherwise requires:*

25 (1) *"Capable of use as human food" shall mean and shall apply to*
26 *any catfish, catfish-like species, or part or product ~~thereof~~ of catfish or a*
27 *catfish-like species unless it is denatured or otherwise identified as*
28 *required by regulations prescribed by the Director of the Arkansas Bureau of*
29 *Standards to deter its use as human food or unless it is naturally inedible*
30 *by humans;*

31 (2) *"Catfish" means any species of the scientific family*
32 *Ictaluridae;*

33 (3) *"Catfish-like" means any species of the scientific genus*
34 *Pangasius, family Claridae, or family Siluridae;*

35 (4) *"Country of origin" means the country or, if within the*
36 *United States, the state, from which the catfish or catfish-like species or*



1 product was obtained;

2 ~~(3)~~ (5) "Director" means the Director of the Arkansas Bureau of
3 Standards;

4 ~~(4)~~ (6) "Direct retail sale" means the sale of catfish or
5 catfish-like products individually or in small quantities directly to the
6 consumer;

7 ~~(5)~~ (7) "Distributor" means any person offering for sale,
8 exchange, or barter any catfish or catfish-like product destined for direct
9 retail sale in Arkansas;

10 ~~(6)~~ (8) "Label" means a display of written, printed, or graphic
11 matter upon or affixed to the container in which a catfish or catfish-like
12 product is offered for direct retail sale;

13 ~~(7)~~ (9) "Labeling" means all labels and other written, printed,
14 or graphic matter upon a catfish or catfish-like product, or any of its
15 containers or wrappers, offered for direct retail sale;

16 ~~(8)~~ (10) "Pay pond" means a circumscribed body of water owned by
17 a person and operated solely for recreational fishing purposes on a
18 commercial basis for profit;

19 ~~(9)~~ (11) "Person" shall include any individual, partnership,
20 corporation, and association or other legal entity;

21 ~~(10)~~ (12) "Processor" means any person engaged in handling,
22 storing, preparing, manufacturing, packing, or holding catfish or catfish-
23 like products;

24 ~~(11)~~ (13) "Producer" means any person engaged in the business of
25 harvesting catfish or catfish-like species, by any method, intended for
26 direct retail sale;

27 ~~(12)~~ (14) "Product" means any catfish or catfish-like product
28 capable of use as human food which is made wholly or in part from any
29 catfish, catfish-like species, or portion ~~thereof~~ of catfish or catfish-like
30 species, except products which contain catfish or catfish-like species only
31 in small proportions or which in the judgment of the director historically
32 have not been considered by consumers as products of the commercial catfish
33 industry and which are exempted from definition as a catfish or catfish-like
34 product by the director under such conditions as he or she may prescribe to
35 assure that the catfish, catfish-like species, or portions ~~thereof~~ of catfish
36 or catfish-like species contained therein are not adulterated and that the

1 products are not represented as catfish or catfish-like products;

2 ~~(13)~~ (14) "Product name" means the name of the catfish or
3 catfish-like item intended for retail sale which identifies it as to kind,
4 class, or specific use; and

5 ~~(14)~~ (15) "Retailer" means any person offering for sale catfish
6 or catfish-like products to individual consumers and representing the last
7 sale prior to human consumption.

8
9 SECTION 2. Arkansas Code § 20-61-203(a)(2), concerning penalties under
10 the Arkansas Catfish Marketing Act of 1975, is amended to read as follows:

11 (2) All distributors, processors, wholesalers, or retailers who
12 are distributing or selling species of fish as catfish or catfish-like that
13 are not within the definition of "catfish" or "catfish-like" under § 20-61-
14 202 shall be in violation of this subchapter and shall be assessed a civil
15 penalty of:

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

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

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

24
25 SECTION 3. Arkansas Code § 20-61-206 is amended to read as follows:
26 20-61-206. Labeling.

27 (a) ~~No~~ A catfish or catfish-like product shall not be offered for
28 direct retail sale for human consumption by a processor, distributor, or
29 retailer unless the catfish or catfish-like product name is specifically
30 labeled in the following manner:

31 (1) "Farm-Raised Catfish or Catfish-like Species", if the
32 product has been specifically produced in fresh water according to the usual
33 and customary techniques of commercial aquaculture;

34 (2) "River or Lake Catfish or Catfish-like Species", if the
35 product has been produced in any freshwater lake, river, or stream of the
36 state but has not been produced according to the usual and customary

1 techniques of commercial aquaculture;

2 (3) "~~Imported~~ Country of Origin Catfish or Catfish-like
3 Species", provided the catfish or catfish-like species is produced from
4 freshwater, either according to the usual and customary techniques of
5 aquaculture, or from freshwater lakes, rivers, or streams ~~of a country other~~
6 ~~than the United States~~; and

7 (4) "Ocean Catfish", provided the catfish product is produced
8 from marine or estuarine waters in the United States.

9 (b) Any person selling river or lake catfish or catfish-like species
10 exclusively and directly to the consumer may have on his or her premises a
11 sign reasonably visible to the consumer which identifies the product as river
12 or lake catfish or catfish-like species, rather than labeling each individual
13 container or package of catfish or catfish-like product, as provided in
14 subsection (a) of this section.

15 (c) Any retailer selling catfish or catfish-like products not wrapped
16 or in a container may comply with this subchapter by placing a sign on the
17 display case or refrigeration unit so that the sign is reasonably visible to
18 the consumer, giving notice that the catfish or catfish-like species is
19 either farm-raised catfish or catfish-like species, river or lake catfish or
20 catfish-like species, ~~imported~~ country of origin catfish or catfish-like
21 species, or ocean catfish, as the products are defined in subsection (a) of
22 this section.

23 (d) Any advertising as to any catfish or catfish-like product shall
24 state whether the catfish or catfish-like product is farm-raised catfish or
25 catfish-like species, river or lake catfish or catfish-like species, ~~imported~~
26 country of origin catfish or catfish-like species, or ocean catfish, as
27 defined in subsection (a) of this section.

28 (e) Subsections (a)-(d) of this section shall not apply to catfish or
29 catfish-like products exported from the United States.

30 (f) All distributors, processors, or wholesalers of catfish or
31 catfish-like products distributing or selling catfish or catfish-like
32 products shall provide information to each person, firm, or corporation to
33 whom they distribute or sell catfish or catfish-like products for resale as
34 to whether the catfish or catfish-like product is farm-raised catfish or
35 catfish-like species, river or lake catfish or catfish-like species, ~~imported~~
36 country of origin catfish or catfish-like species, or ocean catfish, as these

1 terms are defined in subsection (a) of this section.

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3 SECTION 4. Arkansas Code § 20-61-208 is amended to read as follows:
4 20-61-208. Publication of data.

5 The Director of the Arkansas Bureau of Standards shall publish at least
6 biannually, in such form as he or she may deem proper, information concerning
7 the sale of catfish or catfish-like products, together with such data about
8 their production and use as he or she may consider advisable, provided that
9 the information concerning production and sales of catfish or catfish-like
10 products shall not disclose the operation of any person.

11
12 SECTION 5. Arkansas Code § 20-61-302 is amended to read as follows:
13 20-61-302. Identification required.

14 (a) ~~No~~ A catfish or catfish-like product shall not be offered for
15 direct retail sale for human consumption by a restaurant or other eating
16 establishment unless the catfish or catfish-like product name is identified
17 on the menu in the following manner:

18 (1) "Farm-Raised Catfish or Catfish-like Species", if the
19 product has been specifically produced in fresh water according to the usual
20 and customary techniques of commercial aquaculture;

21 (2) "River or Lake Catfish or Catfish-like Species", if the
22 product has been produced in any freshwater lake, river, or stream of the
23 state, but has not been produced according to the usual and customary
24 techniques of commercial aquaculture;

25 (3) (A) "Imported Country of Origin Catfish or Catfish-like
26 Species", if the catfish or catfish-like product is produced from fresh
27 water, either according to the usual and customary techniques of aquaculture,
28 in or from freshwater lakes, rivers, or streams ~~of a country other than the~~
29 United States.

30 (B) The country of origin of the catfish or catfish-like
31 species shall be identified on the menu next to the fish offered for sale in
32 the same type size and font as the fish offered for sale; and

33 (4) "Ocean Catfish", if the catfish product is produced from
34 marine or estuarine waters in the United States.

35 ~~(b)(1) Restaurants serving multiple entrees from multiple sources may~~
36 ~~make a general disclosure of sources upon the menu and shall not be required~~

1 ~~to disclose the source of each entree. The disclosure shall contain these~~
2 ~~words: "Upon request of the customer, the origin of each entree will be~~
3 ~~disclosed."~~

4 ~~(2) Upon request of the customer, the specific source shall be~~
5 ~~disclosed.~~

6 (e) As used in this subchapter, "catfish" means and "catfish-like"
7 mean the same as defined under the Arkansas Catfish Marketing Act of 1975, §
8 20-61-201 et seq.

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10 SECTION 6. DO NOT CODIFY. The Arkansas Bureau of Standards shall
11 publish notice of the passage and the substance of this act on the bureau's
12 website within thirty (30) days of the passage of this act.

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14 SECTION 7. EFFECTIVE DATE. This act is effective on and after January
15 1, 2016.

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17 /s/M.J. Gray
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