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2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1854

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5 By: Representative M.J. Gray

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For An Act To Be Entitled

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AN ACT TO AMEND THE LAWS PERTAINING TO THE MARKETING,

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LABELING, AND IDENTIFICATION OF CATFISH AND CATFISH-

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LIKE SPECIES AND PRODUCTS; AND FOR OTHER PURPOSES.

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Subtitle

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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 product was obtained;

36 ~~(3)~~ (4) "Director" means the Director of the Arkansas Bureau of



1 Standards;

2 ~~(4)~~ (5) "Direct retail sale" means the sale of catfish or
3 catfish-like products individually or in small quantities directly to the
4 consumer;

5 ~~(5)~~ (6) "Distributor" means any person offering for sale,
6 exchange, or barter any catfish or catfish-like product destined for direct
7 retail sale in Arkansas;

8 ~~(6)~~ (7) "Label" means a display of written, printed, or graphic
9 matter upon or affixed to the container in which a catfish or catfish-like
10 product is offered for direct retail sale;

11 ~~(7)~~ (8) "Labeling" means all labels and other written, printed,
12 or graphic matter upon a catfish or catfish-like product, or any of its
13 containers or wrappers, offered for direct retail sale;

14 ~~(8)~~ (9) "Pay pond" means a circumscribed body of water owned by
15 a person and operated solely for recreational fishing purposes on a
16 commercial basis for profit;

17 ~~(9)~~ (10) "Person" shall include any individual, partnership,
18 corporation, and association or other legal entity;

19 ~~(10)~~ (11) "Processor" means any person engaged in handling,
20 storing, preparing, manufacturing, packing, or holding catfish or catfish-
21 like products;

22 ~~(11)~~ (12) "Producer" means any person engaged in the business of
23 harvesting catfish or catfish-like species, by any method, intended for
24 direct retail sale;

25 ~~(12)~~ (13) "Product" means any catfish or catfish-like product
26 capable of use as human food which is made wholly or in part from any
27 catfish, catfish-like species, or portion ~~thereof~~ of catfish or catfish-like
28 species, except products which contain catfish or catfish-like species only
29 in small proportions or which in the judgment of the director historically
30 have not been considered by consumers as products of the commercial catfish
31 industry and which are exempted from definition as a catfish or catfish-like
32 product by the director under such conditions as he or she may prescribe to
33 assure that the catfish, catfish-like species, or portions ~~thereof~~ of catfish
34 or catfish-like species contained therein are not adulterated and that the
35 products are not represented as catfish or catfish-like products;

36 ~~(13)~~ (14) "Product name" means the name of the catfish or

1 catfish-like item intended for retail sale which identifies it as to kind,
2 class, or specific use; and

3 ~~(14)~~ (15) "Retailer" means any person offering for sale catfish
4 or catfish-like products to individual consumers and representing the last
5 sale prior to human consumption.

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

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

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

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

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

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

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

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

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

36 (3) "Imported Catfish or Catfish-like Species", provided the

1 *catfish or catfish-like species is produced from freshwater, either according*
2 *to the usual and customary techniques of aquaculture, or from freshwater*
3 *lakes, rivers, or streams of a country other than the United States; and*

4 (4) *“Ocean Catfish”, provided the catfish product is produced*
5 *from marine or estuarine waters in the United States.*

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

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

19 (d) *Any advertising as to any catfish or catfish-like product shall*
20 *state whether the catfish or catfish-like product is farm-raised catfish or*
21 *catfish-like species, river or lake catfish or catfish-like species, imported*
22 *catfish or catfish-like species, or ocean catfish, as defined in subsection*
23 *(a) of this section.*

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

26 (f) *All distributors, processors, or wholesalers of catfish or*
27 *catfish-like products distributing or selling catfish or catfish-like*
28 *products shall provide information to each person, firm, or corporation to*
29 *whom they distribute or sell catfish or catfish-like products for resale as*
30 *to whether the catfish or catfish-like product is farm-raised catfish or*
31 *catfish-like species, river or lake catfish or catfish-like species, imported*
32 *catfish or catfish-like species, or ocean catfish, as these terms are defined*
33 *in subsection (a) of this section.*

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35 SECTION 4. *Arkansas Code § 20-61-208 is amended to read as follows:*
36 *20-61-208. Publication of data.*

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

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8 SECTION 5. Arkansas Code § 20-61-302 is amended to read as follows:
9 20-61-302. Identification required.

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

14 (1) “Farm-Raised Catfish or Catfish-like Species”, if the
15 product has been specifically produced in fresh water according to the usual
16 and customary techniques of commercial aquaculture;

17 (2) “River or Lake Catfish or Catfish-like Species”, if the
18 product has been produced in any freshwater lake, river, or stream of the
19 state, but has not been produced according to the usual and customary
20 techniques of commercial aquaculture;

21 (3)(A) “Imported ~~Catfish~~”, if the catfish or catfish-like
22 product is produced from fresh water, either according to the usual and
23 customary techniques of aquaculture, in or from freshwater lakes, rivers, or
24 streams of a country other than the United States.

25 (B) The label "Imported" shall be identified on the menu
26 next to the fish offered for sale in a similar type size and font as the fish
27 offered for sale; and

28 (4) “Ocean Catfish”, if the catfish product is produced from
29 marine or estuarine waters in the United States.

30 ~~(b)(1) Restaurants serving multiple entrees from multiple sources may~~
31 ~~make a general disclosure of sources upon the menu and shall not be required~~
32 ~~to disclose the source of each entree. The disclosure shall contain these~~
33 ~~words: “Upon request of the customer, the origin of each entree will be~~
34 ~~disclosed.”.~~

35 ~~(2) Upon request of the customer, the specific source shall be~~
36 ~~disclosed.~~ A restaurant serving a catfish or catfish-like product that is

1 required to be labeled as "Imported Catfish or Catfish-like Species", upon
2 the request of the customer, shall disclose the specific source of the
3 catfish or catfish-like product.

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

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

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12 SECTION 7. EFFECTIVE DATE. This act is effective on and after January
13 1, 2016.

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15 /s/M.J. Gray
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