

[DISCUSSION DRAFT]116TH CONGRESS
2^D SESSION**H. R.** _____

To amend the Federal Food, Drug, and Cosmetic Act to ensure the safety
of imported seafood.

IN THE HOUSE OF REPRESENTATIVES

Mr. HIGGINS of Louisiana introduced the following bill; which was referred
to the Committee on _____

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to
ensure the safety of imported seafood.

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 “Imported Seafood
5 Testing Act”.

6 **SEC. 2. ENSURING THE SAFETY OF IMPORTED SEAFOOD.**

7 (a) IN GENERAL.—Chapter VIII of the Federal
8 Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.)
9 is amended by adding at the end the following:

1 **“SEC. 810. SAFETY OF IMPORTED SEAFOOD.**

2 “(a) MANDATORY TESTING.—

3 “(1) MINIMUM TESTING.—The Secretary shall
4 inspect and test not less than 20 percent of all sea-
5 food imported or offered for import into the United
6 States each year.

7 “(2) NEW EXPORTERS.—Notwithstanding any
8 other provision of this Act, the first 15 shipments of
9 seafood imported or offered for import into the
10 United States from an exporter shall be inspected
11 and tested by the Secretary.

12 “(3) FAILURE TO PASS INSPECTION.—

13 “(A) ONE FAILURE.—If a shipment of sea-
14 food imported or offered for import into the
15 United States by an exporter fails to meet an
16 inspection or test requirement under this Act,
17 each subsequent shipment of seafood from such
18 exporter shall be inspected and tested by the
19 Secretary, until 15 consecutive shipments by
20 such exporter pass that inspection and testing.

21 “(B) MULTIPLE FAILURES.—

22 “(i) IN GENERAL.—If more than 3
23 shipments of seafood imported or offered
24 for import into the United States by an ex-
25 porter fail to meet inspection or test re-
26 quirements under this Act during any 1-

1 year period, no shipments from such ex-
2 porter may be imported or offered for im-
3 port into the United States for the fol-
4 lowing 1-year period. Following such 1-
5 year period when no shipments may be so
6 imported or offered, such exporter shall
7 not be permitted to offer imports to the
8 United States unless the Secretary certifies
9 that such exporter is maintaining a pro-
10 gram using reliable analytical methods to
11 ensure compliance with the United States
12 standards for seafood manufacturing, proc-
13 essing, and holding.

14 “(ii) DETERMINATION BY SEC-
15 RETARY.—Shipments of seafood imported
16 or offered for import into the United
17 States by an exporter that has been sub-
18 ject to a 1-year suspension period and a
19 certification under clause (i) shall be in-
20 spected at a rate determined appropriate
21 by the Secretary for a period of time as de-
22 termined appropriate by the Secretary.

23 “(C) PATTERN OF FAILURES.—If the Sec-
24 retary determines that shipments of seafood im-
25 ported or offered for import into the United

1 States from a particular country repeatedly fail
2 to meet inspection or testing requirements
3 under this Act, all shipments of seafood from
4 such country shall be refused entry into the
5 United States until the Secretary makes a cer-
6 tification described in subparagraph (B)(i).

7 “(4) FEES.—The Secretary shall by regulation
8 impose such fees on exporters in such amounts as
9 may be necessary to provide, equip, and maintain an
10 adequate and efficient inspection service to carry out
11 this subsection. Receipts from such fees shall be cov-
12 ered into the Treasury and shall be available to the
13 Secretary for expenditures incurred in carrying out
14 the purposes of this subsection.

15 “(b) EFFECT OF SHIPMENTS THAT FAIL TO MEET
16 REQUIREMENTS.—

17 “(1) IN GENERAL.—Notwithstanding section
18 801, if a shipment of seafood imported or offered for
19 import into the United States fails to meet safety
20 standards established by the Secretary, such ship-
21 ment shall be detained or destroyed unless the im-
22 ported shipment meets criteria for re-export, as de-
23 termined by the Secretary.

24 “(2) LABELING.—If a shipment of seafood has
25 been refused admission under paragraph (1), other

1 than such a shipment that is required to be de-
2 stroyed, the Secretary shall require the owner or
3 consignee of the shipment to affix to the container
4 of the seafood a label that clearly and conspicuously
5 bears the statement: ‘UNITED STATES: RE-
6 FUSED ENTRY’.

7 “(3) EXPORTING TO FOREIGN COUNTRY.—If
8 the appropriate authority of a foreign country noti-
9 fies the Secretary, not later than 45 days after the
10 shipment is rejected under paragraph (1), that the
11 shipment will be accepted in that country, such ship-
12 ment may be released to the importer for expor-
13 tation to such foreign country.

14 “(4) DESTRUCTION OF SHIPMENT.—If the Sec-
15 retary deems that a shipment rejected under para-
16 graph (1), if it had been allowed entry, could have
17 caused significant health risks if consumed by hu-
18 mans, the shipment shall be destroyed, notwith-
19 standing the receipt of a notification under para-
20 graph (3).

21 “(5) NOTIFICATION TO PORTS OF ENTRY.—The
22 Secretary shall notify ports of entry not later than
23 5 days after a shipment described in paragraph
24 (1)—

1 “(A) was determined to fail to meet safety
2 standards established by the Secretary under
3 such paragraph; or

4 “(B) was detained or destroyed.

5 “(c) REPORTING.—The Secretary shall maintain a
6 public webpage on the website of the Food and Drug Ad-
7 ministration tracking all shipments that are detained or
8 destroyed, and the status of any importing countries fail-
9 ing to meet minimum standards.”.

10 (b) PROHIBITED ACT; PENALTIES.—Chapter III of
11 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331
12 et seq.) is amended—

13 (1) in section 301, by adding at the end the fol-
14 lowing:

15 “(fff) Knowingly making a false statement with re-
16 spect to a test or inspection carried out under section 810,
17 or knowingly misbranding any seafood imported under
18 such section.”; and

19 (2) in section 303, by adding at the end the fol-
20 lowing:

21 “(h)(1) Any person who violates section 301(fff) shall
22 be subject to a civil penalty in an amount not to exceed
23 \$250,000 for each such violation, and not to exceed
24 \$250,000 for each such violation and not to exceed

1 \$1,100,000 for all such violations after the second convic-
2 tion in any 3-year period.

3 “(2) Paragraphs (5), (6), and (7) of subsection (f)
4 shall apply to a civil penalty assessment under this sub-
5 section in the same manner as such paragraphs apply to
6 a civil penalty assessment under subsection (f)(1).”.