

HOUSE CS FOR CS FOR SENATE BILL NO. 208(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/6/02

Referred: Rules

Sponsor(s): SENATOR WARD

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the labeling of, the advertising of, the identification of, and the**
2 **disclosure of certain information about halibut, salmon, sablefish, halibut products,**
3 **salmon products, and sablefish products."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 17.20.040 is amended to read:

6 **Sec. 17.20.040. Misbranded foods.** Food is misbranded if

7 (1) its labeling is false or misleading in any particular;

8 (2) it is offered for sale under the name of another food;

9 (3) it is an imitation of another food, unless its label bears, in type of
10 uniform size and prominence, the word "imitation" and, immediately thereafter, the
11 name of the food imitated;

12 (4) its container is made, formed, or filled so as to be misleading;

13 (5) it is in package form unless it bears a label containing (A) the name
14 and place of business of the manufacturer, packer, or distributor; and (B) an accurate

1 statement of the quantity of the contents in terms of weight, measure, or numerical
 2 count; however, under (B) of this paragraph, reasonable variations are permitted, and
 3 exemptions for small packages shall be established by regulations prescribed by the
 4 department;

5 (6) a word, statement, or other information required by or under
 6 authority of this chapter to appear on the label or labeling is not prominently placed
 7 with the conspicuousness (as compared with other words, statements, designs, or
 8 devices, in the labeling) and in terms **that** [WHICH] make it likely to be read and
 9 understood by the ordinary individual under customary conditions of purchase and
 10 use;

11 (7) it purports to be or is represented as a food for which a definition
 12 and standard of identity has been prescribed by regulations as provided by
 13 AS 17.20.010, unless (A) it conforms to the definition and standard, and (B) its label
 14 bears the name of the food specified in the definition and standard and the common
 15 names of optional ingredients other than spices, flavoring, and coloring present in the
 16 food as required by regulation;

17 (8) it purports to be or is represented as (A) a food for which a
 18 standard of quality has been prescribed by regulations, and its quality falls below that
 19 standard, unless its label bears, in the manner and form the regulations specify, a
 20 statement that it falls below that standard; or (B) a food for which a standard of fill of
 21 container has been prescribed by regulation as provided by AS 17.20.010 and it falls
 22 below the applicable standard of fill of container, unless its label bears, in the manner
 23 and form as the regulations specify, a statement that it falls below that standard;

24 (9) it is not subject to the provisions of (7) of this **subsection**
 25 [SECTION], unless it bears labeling clearly giving (A) the common or usual name of
 26 the food, if any, and (B) in case it is fabricated from two or more ingredients, the
 27 common or usual name of each ingredient; except that, however, spices, flavorings,
 28 and colorings, other than those sold as such, may be designated as spices, flavorings,
 29 and colorings, without naming each; however, to the extent that compliance with the
 30 requirements of (B) of this paragraph is impracticable, or results in deception or unfair
 31 competition, exemptions shall be established by regulations **adopted**

1 [PROMULGATED] by the department, but the requirements of (B) of this paragraph
 2 do not apply to food products that [WHICH] are packaged at the direction of
 3 purchasers at retail at the time of sale, the ingredients of which are disclosed to the
 4 purchasers by other means in accordance with regulations adopted by the department;

5 (10) it purports to be or is represented for special dietary uses, unless
 6 its label bears information concerning its vitamin, mineral, and other dietary properties
 7 the commissioner determines to be, and by regulations prescribes as, necessary in
 8 order fully to inform purchasers as to its value for those uses;

9 (11) it bears or contains artificial flavoring, artificial coloring, or
 10 chemical preservative, unless it bears labeling stating that fact; however, to the extent
 11 that compliance with the requirements of this paragraph is impracticable, exemption
 12 shall be established by regulations adopted by the department;

13 (12) the food is a farmed halibut, salmon, or sablefish product, unless

14 (A) the product is labeled to identify the product as farmed fish
 15 raised outside the state, if the product is sold in a packaged form; or

16 (B) the product is conspicuously identified as farmed fish
 17 raised outside the state, if the product is sold in an unpackaged form;

18 **(13) the labeling or advertisement of the food is inconsistent with**
 19 **the labeling or advertisement provisions of AS 17.20.048.**

20 * **Sec. 2.** AS 17.20.040 is amended by adding a new subsection to read:

21 (b) In (a)(12) of this section, "farmed halibut, salmon, or sablefish product" means a food product that contains halibut, salmon, or sablefish that is propagated, farmed, or cultivated in a facility that grows, farms, or cultivates finfish in captivity or under positive control but that is not a salmon hatchery that is owned by the state or that holds a salmon hatchery permit under AS 16.10.400; in this subsection, "positive control" has the meaning given in AS 16.40.199.

27 * **Sec. 3.** AS 17.20 is amended by adding a new section to read:

28 **Sec. 17.20.048. Labeling and advertisement of halibut, salmon, and**
 29 **sablefish products.** (a) A person who sells halibut, salmon, or sablefish products at
 30 wholesale or retail in this state may label or advertise the product as being or
 31 containing a "wild" halibut, salmon, or sablefish product, an "antibiotic-free" halibut,

salmon, or sablefish product, or a "hormone-free" halibut, salmon, or sablefish product, and may indicate that the product or the halibut, salmon, or sablefish in the product is free from added colors and additives, if the product or the halibut, salmon, or sablefish in the product

- (1) is harvested from a river or an ocean;
- (2) has not been raised in captivity under control for its entire life; and
- (3) is free from added colors and additives.

(b) The labeling or advertising allowed for a halibut, salmon, or sablefish product by (a) of this section may appear on the principal display panel of a packaged product, may be conspicuously attached to the container of a bulk product, or may appear in an advertisement for the product, including media advertising and displays or placards posted in retail stores. In this subsection, "principal display panel" means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for sale.

(c) In this section, "halibut, salmon, or sablefish product" means halibut, salmon, or sablefish, or a product made from halibut, salmon, or sablefish.

17 * Sec. 4. AS 17.20.370(9) is repealed.