

HOUSE BILL NO. 435

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES KERTTULA, Heinze, McGuire, Ogg

Introduced: 2/4/04

Referred: House Special Committee on Fisheries, Labor and Commerce, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the identification of finfish in food products and to the misbranding**
2 **of food products consisting of or containing finfish."**

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

4 *** Section 1.** AS 17.20.040(a) is amended to read:

5 (a) Food is misbranded if

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

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

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

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

12 (5) it is in package form unless it bears a label containing (A) the name
13 and place of business of the manufacturer, packer, or distributor; and (B) an accurate
14 statement of the quantity of the contents in terms of weight, measure, or numerical

1 count; however, under (B) of this paragraph, reasonable variations are permitted, and
2 exemptions for small packages shall be established by regulations prescribed by the
3 department;

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

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

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

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

1 disclosed to the purchasers by other means in accordance with regulations adopted by
2 the department;

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

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

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

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

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

16 (13) the labeling, [OR] advertisement, or identification of the food is
17 inconsistent with the labeling, [OR] advertisement, or identification provisions of
18 AS 17.20.048 or 17.20.049.

19 * **Sec. 2.** AS 17.20 is amended by adding a new section to read:

20 **Sec. 17.20.049. Required identification of fish by retail food**
21 **establishment.** (a) Notwithstanding AS 17.20.048, a retail food establishment shall
22 state on the menu of prepared food products that it is selling whether the fish in a
23 prepared food product is wild fish or farmed fish.

24 (b) In this section,

25 (1) "farmed fish" means fish that is propagated, farmed, or cultivated
26 in a facility that grows, farms, or cultivates the fish in captivity or under positive
27 control but that is not a salmon hatchery that is owned by the state or that holds a
28 salmon hatchery permit under AS 16.10.400; in this paragraph, "positive control" has
29 the meaning given in AS 16.40.199;

30 (2) "fish" means finfish;

31 (3) "prepared food product" means a food product that has been

1 prepared by the retail food establishment selling the food product or by another person
2 at the direction of the retail food establishment;

3 (4) "retail food establishment" means a business that sells prepared
4 food products to the general public for consumption on or off the premises, and
5 includes a business that is, or contains on its premises, a restaurant, a delicatessen, a
6 salad bar, or a bakery; "retail food establishment" does not include an establishment
7 that is provided by

8 (A) an employer primarily for the employees of the employer;

9 (B) a school primarily for the students and employees of the
10 school; or

11 (C) a correctional facility primarily for persons held under
12 official detention;

13 (5) "wild fish" means a fish that

14 (A) is harvested from a river or an ocean;

15 (B) has not been raised in captivity under control for its entire
16 life; and

17 (C) is free from added colors and additives.