

110TH CONGRESS  
2D SESSION

# H. R. 5738

To improve the protections afforded under Federal law to consumers from contaminated seafood by directing the Secretary of Commerce to establish a program, in coordination with other appropriate Federal agencies, to strengthen activities for ensuring that seafood sold or offered for sale to the public in or affecting interstate commerce is fit for human consumption.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2008

Mr. ROSS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Agriculture and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve the protections afforded under Federal law to consumers from contaminated seafood by directing the Secretary of Commerce to establish a program, in coordination with other appropriate Federal agencies, to strengthen activities for ensuring that seafood sold or offered for sale to the public in or affecting interstate commerce is fit for human consumption.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Commercial Seafood  
3 Consumer Protection Act”.

4 **SEC. 2. SEAFOOD SAFETY.**

5 (a) IN GENERAL.—The Secretary of Commerce shall,  
6 in coordination with the Secretary of Health and Human  
7 Services and other appropriate Federal agencies, establish  
8 a program to strengthen Federal activities for ensuring  
9 that commercially distributed seafood in the United States  
10 meets the food quality and safety requirements of Federal  
11 law.

12 (b) MEMORANDUM OF UNDERSTANDING.—The Sec-  
13 retary of Commerce and the Secretary of Health and  
14 Human Services shall enter into an agreement within 180  
15 days after enactment of this Act to strengthen cooperation  
16 on seafood safety. The agreement shall include provisions  
17 for—

18 (1) cooperative arrangements for examining and  
19 testing seafood imports;

20 (2) coordination of inspections of foreign facili-  
21 ties;

22 (3) technical assistance and training of foreign  
23 facilities for marine aquaculture, technical assistance  
24 for foreign governments concerning United States  
25 regulatory requirements, and appropriate informa-

1        tion transfer arrangements between the United  
2        States and foreign governments;

3            (4) developing a process for expediting imports  
4        of seafood into the United States from foreign coun-  
5        tries and exporters that consistently adhere to the  
6        highest standards for ensuring seafood safety;

7            (5) establishing a system to track shipments of  
8        seafood in the distribution chain within the United  
9        States;

10          (6) labeling requirements to assure species iden-  
11        tity and prevent fraudulent practices;

12          (7) a process by which officers and employees  
13        of the National Oceanic and Atmospheric Adminis-  
14        tration and National Marine Fisheries Service shall  
15        be commissioned by the Secretary of Health and  
16        Human Services for seafood examinations and inves-  
17        tigation conducted under section 801 of the Federal  
18        Food, Drug, and Cosmetic Act (21 U.S.C. 381);

19          (8) the sharing of information concerning ob-  
20        served non-compliance with United States food re-  
21        quirements domestically and in foreign countries and  
22        new regulatory decisions and policies that may affect  
23        regulatory outcomes; and

1           (9) conducting joint training on subjects that  
2           affect and strengthen seafood inspection effective-  
3           ness by Federal authorities.

4 **SEC. 3. CERTIFIED LABORATORIES.**

5           Within 180 days after the date of enactment of this  
6 Act, the Secretary of Commerce, in consultation with the  
7 Secretary of Health and Human Services, shall increase  
8 the number of laboratories certified to the standards of  
9 the Food and Drug Administration in the United States  
10 and in countries that export seafood to the United States  
11 for the purpose of analyzing seafood and ensuring that  
12 it complies with Federal law. Such laboratories may in-  
13 clude Federal, State, and private facilities. The Secretary  
14 of commerce shall publish in the Federal Register a list  
15 of certified laboratories, and shall update the list, and pub-  
16 lish the updated list, no less frequently than annually.

17 **SEC. 4. NOAA LABORATORIES.**

18           In any fiscal year beginning after the date of enact-  
19 ment of this Act, the Secretary of Commerce shall increase  
20 the number and capacity of laboratories operated by the  
21 National Oceanic and Atmospheric Administration in-  
22 volved in carrying out testing and other activities under  
23 this Act to the extent the Secretary determines that in-  
24 creased laboratory capacity is necessary to carry out the

1 provisions of this Act and as provided for in appropria-  
2 tions Acts.

3 **SEC. 5. CONTAMINATED SEAFOOD.**

4 (a) REFUSAL OF ENTRY.—The Secretary of Health  
5 and Human Services shall issue an order refusing admis-  
6 sion into the United States of all imports of seafood or  
7 seafood products originating from a country or exporter  
8 if the Secretary determines, on the basis of reliable evi-  
9 dence, that shipments of such seafood or seafood products  
10 is not likely to meet the requirements of Federal law.

11 (b) INCREASED TESTING.—If the Secretary deter-  
12 mines, on the basis of reliable evidence that seafood im-  
13 ports originating from a country may not meet the re-  
14 quirements of Federal law, and determines that there is  
15 a lack of adequate certified laboratories to provide for the  
16 entry of shipments pursuant to section 3, then the Sec-  
17 retary shall order an increase in the percentage of ship-  
18 ments tested of seafood originating from such country to  
19 improve detection of potential violations of such require-  
20 ments.

21 (c) ALLOWANCE OF INDIVIDUAL SHIPMENTS FROM  
22 EXPORTING COUNTRY OR EXPORTER.—Notwithstanding  
23 an order under subsection (a) with respect to seafood orig-  
24 inating from a country or exporter, the Secretary may per-  
25 mit individual shipments of seafood originating in that

1 country or from that exporter to be admitted into the  
2 United States if—

3 (1) the exporter presents evidence from a lab-  
4 oratory certified by the Secretary that a shipment of  
5 seafood meets the requirements of Federal law; and

6 (2) the Secretary, or an entity commissioned to  
7 carry out examinations and investigations under sec-  
8 tion 702(a) of the Federal Food, Cosmetic, and  
9 Drug Act (21 U.S.C. 372(a)), has inspected the  
10 shipment and has found that the shipment meets the  
11 requirements of Federal law.

12 (d) CANCELLATION OF ORDER.—The Secretary shall  
13 cancel an order under subsection (a) with respect to sea-  
14 food exported from a country or exporter if all shipments  
15 into the United States under subsection (c) of seafood  
16 originating in that country or from that exporter more  
17 than 1 year after the date on which the Secretary issued  
18 the order have been found, under the procedures described  
19 in subsection (c), to meet the requirements of Federal law.  
20 If the Secretary determines that an exporter has failed  
21 to comply with the requirements of an order under sub-  
22 section (a), the 1-year period in the preceding sentence  
23 shall run from the date of that determination rather than  
24 the date on which the order was issued.

1 (e) RELIABLE EVIDENCE DEFINED.—In this section,  
2 the term “reliable evidence” includes—

3 (1) the detection of failure to meet Federal law  
4 requirements under subsection (a) by the Secretary;

5 (2) the detection of all seafood products that  
6 fail to meet Federal law requirements by an entity  
7 commissioned to carry out examinations and inves-  
8 tigations under section 702(a) of the Federal Food,  
9 Cosmetic, and Drug Act (21 U.S.C. 372(a)) or a  
10 laboratory certified under subsection (c);

11 (3) findings from an inspection team formed  
12 under section 6; or

13 (4) the detection by other importing countries  
14 of non-compliance of shipments of seafood or sea-  
15 food products that originate from the exporting  
16 country or exporter.

17 (f) EFFECT.—This section shall be in addition to,  
18 and shall have no effect on, the authority of the Secretary  
19 of Health and Human Services under the Federal Food,  
20 Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with re-  
21 spect to seafood, seafood products, or any other product.

22 **SEC. 6. INSPECTION TEAMS.**

23 The Secretary of Commerce, in cooperation with the  
24 Secretary of Health and Human Services, shall send 1 or  
25 more inspectors to a country or exporter from which sea-

1 food exported to the United States originates. The inspec-  
2 tion team will assess whether any prohibited drug, prac-  
3 tice, or process is being used in connection with the farm-  
4 ing, cultivation, harvesting, preparation for market, or  
5 transportation of such seafood. The inspection team shall  
6 prepare a report for the Secretary with its findings. The  
7 Secretary of Commerce shall cause the report to be pub-  
8 lished in the Federal Register no later than 90 days after  
9 the inspection team makes its final report. The Secretary  
10 of Commerce shall notify the country or exporter through  
11 appropriate means as to the findings of the report no later  
12 than the date on which the report is published in the Fed-  
13 eral Register. A country may offer a rebuttal to the assess-  
14 ment within 90 days after publication of the report.

15 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

16       There are authorized to be appropriated for each of  
17 fiscal years 2009 through 2013, for purposes of carrying  
18 out the provisions of this Act, \$15,000,000.

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