

Amendment No. 1 to SB2791

**Cooper J
Signature of Sponsor**

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 2791

House Bill No. 2121*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 53-1-102, is amended by adding the following new, appropriately designated subdivisions:

() "Catfish" means any species within the family *Ictaluridae* or the family *Anarchichadidae*;

() "Catfish product" means any product capable of use as human food that is made wholly or in part from any catfish or portion thereof, except products that contain catfish only in small proportions or historically have not been, in the judgment of the commissioner, considered by consumers as products of the United States commercial catfish industry and that are exempted from definition as a catfish product by the commissioner under such conditions as the commissioner may prescribe to assure that the catfish or portions thereof contained therein are not adulterated and that the products are not represented as catfish products;

() "Imported catfish" means catfish that is produced in a nation other than the United States of America, either according to the usual and customary techniques of aquaculture or in the freshwater lakes, rivers or streams or the marine or estuarine waters of such foreign nation;

() "Imported catfish product" means any product capable of use as human food that is made, wholly or in part, from any imported catfish or portion thereof;

SECTION 2. Tennessee Code Annotated, Title 53, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 53-1-1__.

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(a)(1) All imported catfish and imported catfish products sold in this state, whether at wholesale or retail, for the purpose of human consumption shall be labeled to denote the nation of origin of the catfish, which information shall be preceded by the words "Product of". Such labels shall be easily identifiable and affixed to each package of imported catfish or imported catfish products sold.

(2) Each advertisement for imported catfish or imported catfish products shall clearly denote the nation of origin of the imported catfish or imported catfish product being advertised for sale, which information shall be preceded by the words "Product of".

(b)(1) The term "catfish" shall not be used as a common name or brand name or used to advertise, distribute, or label any fish or fish product except for those species within the definition of catfish set out in §53-1-102.

(2) It is a violation of this section to use the term "catfish" in the advertisement, distribution, processing, labeling, or wholesale or retail sale of any of those species within the family of *Siluridae*, *Clariidae* and *Pangasiidae* or any other species of fish not included within the definition of catfish set out in §53-1-102.

(c) The provisions of this section shall apply only to the advertisement, distribution, processing, labeling, or wholesale or retail sale of:

(1) unprepared or packaged imported catfish and imported catfish products; and

(2) unprepared or packaged fish and fish products described in subsection (b).

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(d) The commissioner shall enforce the requirements of this section and is authorized to promulgate rules and regulations pursuant to title 4, chapter 5, to implement the provisions of this section.

(e) In the event of a violation of this section, the commissioner is authorized to:

(1) Order the processor, distributor, wholesaler or retailer to cease the distribution or sale of imported catfish or imported catfish products that are not labeled or are labeled in violation of this section;

(2) Order the processor, distributor, wholesaler or retailer to cease advertising practices or content that does not clearly denote the nation of origin of imported catfish or imported catfish products being advertised for sale or is otherwise deceptive, misleading or ambiguous;

(3) Order the processor, distributor, wholesaler or retailer to cease the advertisement, distribution, labeling or sale of all other fish or fish products that are being advertised, distributed, labeled or sold in violation of this section;

(4) Seek injunctive relief to stop practices that are in violation of this section; and

(5) Order the processor, distributor, wholesaler or retailer to comply with the provisions of this section or any rule or regulation promulgated pursuant thereto.

(f) Any person who violates the provisions of this section shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. Each day of continued violation constitutes a separate violation.

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(g) Any person aggrieved by an order or civil penalty imposed by the commissioner shall be entitled to a hearing in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. This act shall take effect July 1, 2002, the public welfare requiring it.