

AMENDMENT TO RULES COMMITTEE PRINT

119-22

OFFERED BY MR. HIGGINS OF LOUISIANA

At the end of subtitle D of title XII, add the following:

1 **SEC. ____ . ENSURING THE SAFETY OF IMPORTED SEA-**
2 **FOOD.**

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

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

7 “(a) REQUIREMENT OF EQUIVALENCE.—

8 “(1) STANDARDS FOR EXPORTING COUNTRY.—

9 No seafood may be imported into the United States
10 from a foreign country unless the Secretary certifies
11 that the seafood imported from such country is
12 maintained through a program using reliable analytical
13 methods to ensure compliance with the United
14 States standards for seafood manufacturing, processing,
15 and holding.

16 “(2) INSPECTION OF EXPORTING FACILITIES.—

17 In accordance with the procedures described under
18 section 704, officers and employees duly designated

1 by the Secretary shall conduct not less than 1 in-
2 spection on an annual basis of each foreign facility
3 that exports seafood to the United States to ensure
4 that each such foreign facility maintains a program
5 using reliable analytical methods to ensure compli-
6 ance with the United States standards for seafood
7 manufacturing, processing, and holding. In addition
8 to such annual inspection, such officers and employ-
9 ees shall conduct periodic follow-up inspections of
10 such foreign facilities as determined necessary by
11 the Secretary.

12 “(b) MANDATORY TESTING.—

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

17 “(2) NEW EXPORTERS.—Notwithstanding any
18 other provision of this Act, the first 15 shipments of
19 seafood imported or offered for import into the
20 United States from an exporter shall be inspected
21 and tested by the Secretary.

22 “(3) FAILURE TO PASS INSPECTION.—

23 “(A) ONE FAILURE.—If a shipment of sea-
24 food imported or offered for import into the
25 United States by an exporter fails to meet an

1 inspection or test requirement under this Act,
2 each subsequent shipment of seafood from such
3 exporter shall be inspected and tested by the
4 Secretary, until 15 consecutive shipments by
5 such exporter pass that inspection and testing.

6 “(B) MULTIPLE FAILURES.—

7 “(i) IN GENERAL.—If more than 3
8 shipments of seafood imported or offered
9 for import into the United States by an ex-
10 porter fail to meet inspection or test re-
11 quirements under this Act during any 1-
12 year period, no shipments from such ex-
13 porter may be imported or offered for im-
14 port into the United States for the fol-
15 lowing 1-year period. Following such 1-
16 year period when no shipments may be so
17 imported or offered, such exporter shall
18 not be permitted to offer imports to the
19 United States unless the Secretary certifies
20 that such exporter is maintaining a pro-
21 gram using reliable analytical methods to
22 ensure compliance with the United States
23 standards for seafood manufacturing, proc-
24 essing, and holding.

1 “(ii) DETERMINATION BY SEC-
2 RETARY.—Shipments of seafood imported
3 or offered for import into the United
4 States by an exporter that has been sub-
5 ject to a 1-year suspension period and a
6 certification under clause (i) shall be in-
7 spected at a rate determined appropriate
8 by the Secretary for a period of time as de-
9 termined appropriate by the Secretary.

10 “(C) PATTERN OF FAILURES.—If the Sec-
11 retary determines that shipments of seafood im-
12 ported or offered for import into the United
13 States from a particular country repeatedly fail
14 to meet inspection or testing requirements
15 under this Act, all shipments of seafood from
16 such country shall be refused entry into the
17 United States until the Secretary makes a cer-
18 tification described under subsection (a).

19 “(D) PROCEDURES.—The testing and in-
20 spections procedures used under this paragraph
21 shall be carried out in accordance with section
22 801.

23 “(4) FEES.—The Secretary shall by regulation
24 impose such fees on exporters in such amounts as
25 may be necessary to provide, equip, and maintain an

1 adequate and efficient inspection service to carry out
2 this subsection. Receipts from such fees shall be cov-
3 ered into the Treasury and shall be available to the
4 Secretary for expenditures incurred in carrying out
5 the purposes of this subsection, including expendi-
6 tures for salaries of additional inspectors when nec-
7 essary to supplement the number of inspectors for
8 whose salaries Congress has appropriated.

9 “(c) EFFECT OF SHIPMENTS THAT FAIL TO MEET
10 REQUIREMENTS.—

11 “(1) IN GENERAL.—Notwithstanding section
12 801, if a shipment of seafood imported or offered for
13 import into the United States fails to meet safety
14 standards established by the Secretary, such ship-
15 ment shall be detained or destroyed unless the im-
16 ported shipment meets criteria for re-export, as de-
17 termined by the Secretary.

18 “(2) LABELING.—If a shipment of seafood has
19 been refused admission under paragraph (1), other
20 than such a shipment that is required to be de-
21 stroyed, the Secretary shall require the owner or
22 consignee of the shipment to affix to the container
23 of the seafood a label that clearly and conspicuously
24 bears the statement: ‘UNITED STATES: RE-
25 FUSED ENTRY’.

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

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

15 “(5) NOTIFICATION TO PORTS OF ENTRY.—The
16 Secretary shall notify ports of entry not later than
17 5 days after a shipment described in paragraph
18 (1)—

19 “(A) was determined to fail to meet safety
20 standards established by the Secretary under
21 such paragraph; or

22 “(B) was detained or destroyed.

23 “(d) PORTS OF ENTRY.—

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of this chapter, seafood may be imported

1 or offered for import only at those ports of entry
2 into the United States that have the personnel
3 trained to conduct the applicable testing and inspec-
4 tion of seafood, as certified by the Secretary under
5 paragraph (2).

6 “(2) CERTIFICATION.—The Secretary shall cer-
7 tify which ports of entry into the United States have
8 the personnel trained to conduct the applicable test-
9 ing and inspection of seafood.

10 “(3) EFFECT OF CERTIFICATION REQUIRE-
11 MENT.—If a port of entry—

12 “(A) was, on the day before the date of en-
13 actment of this section, a port of entry that ac-
14 cepted seafood imported or offered for import
15 into the United States; and

16 “(B) does not meet the requirements for
17 certification under paragraph (2),

18 the Secretary shall, as soon as practicable after the
19 date of enactment of this section, provide proper
20 personnel levels and training to enable such port to
21 be certified under paragraph (2).

22 “(e) ANNUAL REPORT.—On an annual basis, the
23 Secretary shall submit to Congress a report that describes
24 the implementation of this section, including—

1 “(1) summary data relating to inspections and
2 testing under this section, and any noncompliance
3 with the applicable provisions of this Act; and

4 “(2) recommendations of any improvements or
5 other modifications to this section determined nec-
6 essary by the Secretary.”.

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

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

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

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

18 “(h)(1) Any person who violates section 301(jjj) shall
19 be subject to a civil penalty in an amount not to exceed
20 \$250,000 for each such violation, and not to exceed
21 \$1,100,000 for all such violations after the second convic-
22 tion in any 3-year period.

23 “(2) Paragraphs (5), (6), and (7) of subsection (f)
24 shall apply to a civil penalty assessment under this sub-

1 section in the same manner as such paragraphs apply to
2 a civil penalty assessment under subsection (f)(1).”.

3 **SEC. 2. COOPERATION WITH STATES TO CONDUCT INSPEC-**
4 **TIONS.**

5 Chapter VIII of the Federal Food, Drug, and Cos-
6 metic Act (21 U.S.C. 381 et seq.), as amended by section
7 2, is further amended by adding at the end the following:

8 **“SEC. 810A. COOPERATION WITH STATES TO CONDUCT SEA-**
9 **FOOD INSPECTIONS.**

10 “(a) ESTABLISHMENT OF COOPERATIVE INSPECTION
11 PROGRAM.—The Secretary may establish a program
12 under which a State may conduct inspection, testing, and
13 certification of seafood imported or offered for import into
14 the United States.

15 “(b) COMPONENTS OF PROGRAM.—Under the pro-
16 gram established under subsection (a)—

17 “(1) the Secretary shall—

18 “(A) provide training to State officials to
19 enable such officials to carry out inspection,
20 testing, and certification, in accordance with
21 Federal requirements and safety standards, of
22 seafood imported or offered for import into the
23 United States; and

24 “(B) certify such State officials as author-
25 ized agents of the Federal Government to carry

1 out such inspections, testing, and certification;
2 and

3 “(2) a State that receives a grant under sub-
4 section (c) shall—

5 “(A) comply with all requirements of the
6 Secretary with respect to the training and cer-
7 tification of State officials described under
8 paragraph (1);

9 “(B) inspect, test, and certify, in accord-
10 ance with Federal requirements and safety
11 standards, seafood imported or offered for im-
12 port into the United States; and

13 “(C) carry out any other activities as de-
14 termined necessary by the Secretary to ensure
15 the safety of seafood imported or offered for
16 import into the United States.

17 “(c) GRANTS.—

18 “(1) IN GENERAL.—The Secretary shall award
19 grants to States to carry out the cooperative seafood
20 inspection program established under subsection (a).

21 “(2) APPLICATION.—To be eligible to receive a
22 grant under paragraph (1), a State shall submit an
23 application to the Secretary at such time, in such

1 manner, and containing such information as the Sec-
2 retary may require.”.

