

Stricken language would be deleted from and underlined language would be added to present law.
Act 1191 of the Regular Session

State of Arkansas *As Engrossed: H3/17/15 H3/24/15 H3/26/15 S3/30/15*

90th General Assembly

A Bill

Regular Session, 2015

HOUSE BILL 1854

By: Representative M.J. Gray

For An Act To Be Entitled

AN ACT TO AMEND THE LAWS PERTAINING TO THE MARKETING,
LABELING, AND IDENTIFICATION OF CATFISH AND CATFISH-
LIKE SPECIES AND PRODUCTS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAWS PERTAINING TO THE
MARKETING, LABELING, AND IDENTIFICATION
OF CATFISH AND CATFISH-LIKE SPECIES AND
PRODUCTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-61-202 is amended to read as follows:

20-61-202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) *"Capable of use as human food" shall mean and shall apply to any catfish, catfish-like species, or part or product ~~thereof~~ of catfish or a catfish-like species unless it is denatured or otherwise identified as required by regulations prescribed by the Director of the Arkansas Bureau of Standards to deter its use as human food or unless it is naturally inedible by humans;*

(2) *"Catfish" means any species of the scientific family Ictaluridae;*

(3) *"Catfish-like" means any species of the scientific genus Pangasius, family Claridae, or family Siluridae;*

~~(3)~~ (4) *"Director" means the Director of the Arkansas Bureau of Standards;*



~~(4)~~ (5) "Direct retail sale" means the sale of catfish or catfish-like products individually or in small quantities directly to the consumer;

~~(5)~~ (6) "Distributor" means any person offering for sale, exchange, or barter any catfish or catfish-like product destined for direct retail sale in Arkansas;

~~(6)~~ (7) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a catfish or catfish-like product is offered for direct retail sale;

~~(7)~~ (8) "Labeling" means all labels and other written, printed, or graphic matter upon a catfish or catfish-like product, or any of its containers or wrappers, offered for direct retail sale;

~~(8)~~ (9) "Pay pond" means a circumscribed body of water owned by a person and operated solely for recreational fishing purposes on a commercial basis for profit;

~~(9)~~ (10) "Person" shall include any individual, partnership, corporation, and association or other legal entity;

~~(10)~~ (11) "Processor" means any person engaged in handling, storing, preparing, manufacturing, packing, or holding catfish or catfish-like products;

~~(11)~~ (12) "Producer" means any person engaged in the business of harvesting catfish or catfish-like species, by any method, intended for direct retail sale;

~~(12)~~ (13) "Product" means any catfish or catfish-like product capable of use as human food which is made wholly or in part from any catfish, catfish-like species, or portion ~~thereof~~ of catfish or catfish-like species, except products which contain catfish or catfish-like species only in small proportions or which in the judgment of the director historically have not been considered by consumers as products of the commercial catfish industry and which are exempted from definition as a catfish or catfish-like product by the director under such conditions as he or she may prescribe to assure that the catfish, catfish-like species, or portions ~~thereof~~ of catfish or catfish-like species contained therein are not adulterated and that the products are not represented as catfish or catfish-like products;

~~(13)~~ (14) "Product name" means the name of the catfish or catfish-like item intended for retail sale which identifies it as to kind,

class, or specific use; and

~~(14)~~ (15) *“Retailer” means any person offering for sale catfish or catfish-like products to individual consumers and representing the last sale prior to human consumption.*

SECTION 2. Arkansas Code § 20-61-203(a)(2), concerning penalties under the Arkansas Catfish Marketing Act of 1975, is amended to read as follows:

(2) All distributors, processors, wholesalers, or retailers who are distributing or selling species of fish as catfish or catfish-like that are not within the definition of “catfish” or “catfish-like” under § 20-61-202 shall be in violation of this subchapter and shall be assessed a civil penalty of:

(A) Not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for a first violation;

(B) Not less than eight hundred dollars (\$800) nor more than two thousand dollars (\$2,000) for a second violation within three (3) years after the date of the first violation; and

(C) Not less than one thousand five hundred dollars (\$1,500) nor more than two thousand five hundred dollars (\$2,500) for a third violation within three (3) years after the date of the first violation.

*SECTION 3. Arkansas Code § 20-61-206 is amended to read as follows:
20-61-206. Labeling.*

(a) ~~No~~ A catfish or catfish-like product shall not be offered for direct retail sale for human consumption by a processor, distributor, or retailer unless the catfish or catfish-like product name is specifically labeled in the following manner:

(1) “Farm-Raised Catfish”, if the product has been specifically produced in fresh water according to the usual and customary techniques of commercial aquaculture;

(2) “River or Lake Catfish”, if the product has been produced in any freshwater lake, river, or stream of the state but has not been produced according to the usual and customary techniques of commercial aquaculture;

(3) “Imported ~~Catfish~~”, provided the catfish or catfish-like species is produced from freshwater, either according to the usual and customary techniques of aquaculture, or from freshwater lakes, rivers, or

streams of a country other than the United States; and

(4) "Ocean Catfish", provided the catfish product is produced from marine or estuarine waters in the United States.

(b) Any person selling river or lake catfish or catfish-like species exclusively and directly to the consumer may have on his or her premises a sign reasonably visible to the consumer which identifies the product as river or lake catfish or catfish-like species, rather than labeling each individual container or package of catfish or catfish-like product, as provided in subsection (a) of this section.

(c) Any retailer selling catfish or catfish-like products not wrapped or in a container may comply with this subchapter by placing a sign on the display case or refrigeration unit so that the sign is reasonably visible to the consumer, giving notice that the catfish or catfish-like species is either farm-raised catfish or catfish-like species, river or lake catfish or catfish-like species, imported catfish or catfish-like species, or ocean catfish, as the products are defined in subsection (a) of this section.

(d) Any advertising as to any catfish or catfish-like product shall state whether the catfish or catfish-like product is farm-raised catfish or catfish-like species, river or lake catfish or catfish-like species, imported catfish or catfish-like species, or ocean catfish, as defined in subsection (a) of this section.

(e) Subsections (a)-(d) of this section shall not apply to catfish or catfish-like products exported from the United States.

(f) All distributors, processors, or wholesalers of catfish or catfish-like products distributing or selling catfish or catfish-like products shall provide information to each person, firm, or corporation to whom they distribute or sell catfish or catfish-like products for resale as to whether the catfish or catfish-like product is farm-raised catfish or catfish-like species, river or lake catfish or catfish-like species, imported catfish or catfish-like species, or ocean catfish, as these terms are defined in subsection (a) of this section.

*SECTION 4. Arkansas Code § 20-61-208 is amended to read as follows:
20-61-208. Publication of data.*

The Director of the Arkansas Bureau of Standards shall publish at least biannually, in such form as he or she may deem proper, information concerning

the sale of catfish or catfish-like products, together with such data about their production and use as he or she may consider advisable, provided that the information concerning production and sales of catfish or catfish-like products shall not disclose the operation of any person.

*SECTION 5. Arkansas Code § 20-61-302 is amended to read as follows:
20-61-302. Identification required.*

(a) ~~No~~ A catfish or catfish-like product shall not be offered for direct retail sale for human consumption by a restaurant or other eating establishment unless the catfish or catfish-like product name is identified on the menu in the following manner:

(1) "Farm-Raised Catfish", if the product has been specifically produced in fresh water according to the usual and customary techniques of commercial aquaculture;

(2) "River or Lake Catfish", if the product has been produced in any freshwater lake, river, or stream of the state, but has not been produced according to the usual and customary techniques of commercial aquaculture;

(3)(A) "Imported ~~Catfish~~", if the catfish or catfish-like product is produced from fresh water, either according to the usual and customary techniques of aquaculture, in or from freshwater lakes, rivers, or streams of a country other than the United States.

(B) The label "Imported" shall be identified on the menu next to the fish offered for sale in a similar type size and font as the fish offered for sale; and

(4) "Ocean Catfish", if the catfish product is produced from marine or estuarine waters in the United States.

~~(b)(1) Restaurants serving multiple entrees from multiple sources may make a general disclosure of sources upon the menu and shall not be required to disclose the source of each entree. The disclosure shall contain these words: "Upon request of the customer, the origin of each entree will be disclosed."~~

~~(2) Upon request of the customer, the specific source shall be disclosed. A restaurant serving a catfish or catfish-like product that is required to be labeled as "Imported", upon the request of the customer, shall disclose the specific source of the catfish or catfish-like product.~~

(c) As used in this subchapter, "catfish" ~~means~~ and "catfish-like"

mean the same as defined under the Arkansas Catfish Marketing Act of 1975, § 20-61-201 et seq.

SECTION 6. DO NOT CODIFY. The Arkansas Bureau of Standards shall publish notice of the passage and the substance of this act on the bureau's website within thirty (30) days of the passage of this act.

SECTION 7. EFFECTIVE DATE. This act is effective on and after January 1, 2016.

/s/M.J. Gray

APPROVED: 04/07/2015