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103D CONGRESS
1ST SESSION

H. R. 1412

To establish a National Shellfish Safety Program.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Mrs. UNSOELD introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries and Energy and Commerce

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A BILL

To establish a National Shellfish Safety Program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Shellfish Safety Act of 1993''.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) protect against the hazards to human health associated with the consumption of shellfish; and

(2) ensure the public confidence in the wholesomeness and labeling of shellfish products consumed in the United States.

SEC. 3. NATIONAL SHELLFISH SAFETY PROGRAM.

(a) ESTABLISHMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Commerce, other appropriate Federal agencies and the Conference shall establish a National Shellfish Safety Program to carry out the purposes of this Act.

(b) GUIDELINES.—The National Shellfish Safety Program established under subsection (a) shall include the issuance of guidelines for—

(1) shellfish growers, shellfish harvesters, shellfish shippers, and their vessels;

(2) water quality of shellfish growing and harvesting areas;

(3) monitoring the movement of domestic and imported shellfish in interstate commerce;

(4) monitoring and controlling biotoxins and other naturally occurring pathogens and bacterial, viral, and chemical contaminants in shellfish; and

(5) such other matters as are necessary to carry out the purposes of this Act.

(c) EXISTING GUIDELINES.—The Program shall be consistent with guidelines adopted by the Conference pursuant to the Memorandum of Understanding between the Conference and the Food and Drug Administration, dated March 14, 1984.

(d) REVIEW AND REVISION.—The Secretary, in consultation with the Conference, shall periodically review and revise the Program to ensure that the program continues to carry out the purposes of this Act.

SEC. 4. DOMESTIC SHELLFISH SAFETY.

(a) STATE SHELLFISH SAFETY PROGRAMS.—Each shellfish producing State shall submit to the Secretary, within 6 months after the establishment of the Program and annually thereafter—

(1) a proposed State shellfish safety program to—

(A) manage its shellfish safety program consistent with the Program;

(B) monitor and classify shellfish growing and harvest areas in the State consistent with the Program;

(C) establish procedures for the closure and reopening of shellfish growing and harvest areas in the State that do not meet the standards of the Program;

(D) certify those shellfish shippers in the State that comply with the requirements of the Program; and

(E) provide adequate monitoring and enforcement to ensure that standards and procedures established under the Program are met.

(b) CERTIFIED SHELLFISH SHIPPERS LIST.—Each State shall submit to the Secretary each month, a list of those shellfish shippers that are certified by the State as meeting the requirements of the Program.

(c) CLASSIFIED WATERS LIST.—Each shellfish producing State shall submit to the Secretary each month, a list of those shellfish harvesting and growing waters that are classified by the State as meeting the requirements of the Program.

SEC. 5. IMPORTED SHELLFISH SAFETY.

(a) MEMORANDUM OF UNDERSTANDING.—After the date of the establishment of the Program, the Secretary may enter into a memorandum of understanding with any foreign country which the Secretary determines has a shellfish safety program that is at least equivalent to the Program.

(b) CONTENTS.—A memorandum of understanding entered into by the Secretary under this section shall—

(1) provide for such verification activities by the Secretary as the Secretary considers appropriate to determine that the shellfish safety program of the foreign country is at least equivalent to the Program; and

(2) require the foreign country to—

(A) manage its shellfish safety program under standards and procedures that are at least equivalent to the Program;

(B) certify to the Secretary those shellfish shippers located in the foreign country that comply with the Program; and

(C) maintain and make available to the Secretary a list of those shellfish harvesting and growing waters of the foreign country that are classified by the foreign country as meeting requirements at least equivalent to the Program.

SEC. 6. PUBLICATION OF LISTS.

The Secretary shall, within 60 days after the establishment of the Program—

(1) establish, maintain, publish, and distribute monthly a list of those shellfish shippers that are certified by a State or a foreign country as meeting the requirements of the Program; and

(2) establish, maintain, publish, and distribute monthly a list of those shellfish harvesting and growing waters that are classified by States and foreign countries as meeting the requirements of the Program.

SEC. 7. DELISTING OF CERTIFIED SHIPPERS.

After consultation with the appropriate State or foreign shellfish control agency and the Conference, the Secretary may remove a shellfish shipper from the list under section 6(1) if the Secretary determines that—

(1) the shipper is not in compliance with the standards and procedures established under the Program that are applicable to the shipper; and

(2) the State or foreign country which certified that shipper under section 4(b) or 5(b)(2)(A), respectively, has not taken appropriate action with respect to that noncompliance.

SEC. 8. CERTAIN SHELLFISH DEEMED UNFIT FOR HUMAN CONSUMPTION.

Shellfish is deemed to be adulterated for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) if—

(1) it is grown or harvested in a foreign country that has not entered into a memorandum of understanding with the Secretary in accordance with sec-

tion 5 within 6 months after the date of the enactment of the Program;

(2) it is grown or harvested in a State that does not have State shellfish safety program that is approved by the Secretary under section 4;

(3) it is harvested from waters that—

(A) have not been classified by a State or a foreign country as meeting the requirements of the Program; or

(B) are otherwise deemed by the Secretary to be unsuitable for harvesting; or

(4) it is shipped by a shellfish shipper not on the list published by the Secretary under section 6(1).

SEC. 9. ASSISTANCE FOR STATE SHELLFISH SAFETY PROGRAMS.

The Secretary may enter into cooperative agreements with States for developing, implementing, and maintaining State shellfish safety programs in accordance with the Program.

SEC. 10. RESTORATION OF SHELLFISH GROWING AND HARVEST WATERS.

(a) EVALUATION.—The Secretary of Commerce shall, in cooperation with the Administrator of the Environmental Protection Agency and the States—

(1) establish and maintain a list of those State shellfish growing and harvesting areas where shellfish harvesting is conditional or prohibited;

(2) determine the causes of those conditions and prohibitions; and

(3) evaluate the potential for removing those conditions and prohibitions.

(b) COOPERATIVE AGREEMENTS.—The Secretary of Commerce may enter into cooperative agreements with States for developing and implementing restoration programs for shellfish growing and harvesting areas listed under subsection (a)(1).

SEC. 11. DEFINITIONS.

For the purpose of this Act, the term—

(1) ''Conference'' means the Interstate Shellfish Sanitation Conference;

(2) ''Program'' means the National Shellfish Safety Program established under section 3;

(3) ''Secretary'' means the Secretary of Health and Human Services;

(4) ''shellfish''—

(A) means any species of molluscan bivalves;

(B) includes oysters, clams, mussels, and scallops (except scallop abductor muscles); and

(C) includes any such species that is shucked, in the shell, fresh, frozen, canned, cooked, thermally processed, or breaded;

(5) ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory of possession of the United States; and

(6) ''shellfish shipper'' means any person that shucks, packs, repacks, ships, or processes (including cooking, canning, freezing, depurating, breading, thermal processing, or other handling) shellfish in interstate commerce.

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