S T A T E O F N E W Y O R K

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I N A S S E M B L Y

May 22, 2014

Introduced by M. of A. DINOWITZ, JAFFEE, GOTTFRIED, GALEF, TITONE, ABINANTI, OTIS -- Multi-Sponsored by -- M. of A. SWEENEY -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT relating to authorizing the creation of the New York state quality seafood certification program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known as and may be cited as the "New York state quality seafood certification program".

S 2. Legislative intent. The legislature hereby finds and declares that fish misidentification and species substitution is a problem that has a direct impact on New York consumers. A recently conducted study discovered that nearly 40 percent of the fish being sold in New York city was mislabeled and certain species tested were overwhelmingly misidentified. Intentional mislabeling occurs when less desirable or less expensive species of fish are intentionally substituted in place of more expensive or more desirable fish species. In other instances, retailers, distributors, restaurants, and consumers are unaware that the fish they purchase is mislabeled or misidentified because distinctions between fish, fish fillets, and shellfish of various species are often indistinguishable to the naked eye.

The legislature further finds that intentional or unintentional species substitution, misidentification, or mislabeling, results in negative economic, health, and environmental consequences, including wholesalers, distributors, retailers, restaurants, and consumers paying higher prices for less expensive or less desirable fish species.

The federal government and many private companies use deoxyribonucleic acid (DNA) barcoding technology which provides an inexpensive and accessible means to test samples of fish and determine the particular species identification. Additionally, state governments, non-government organizations, and private companies have developed and implemented traceability programs that can provide consumers with the knowledge and ability to track where the fish they consume comes from, the identity of the fisherman who harvested the fish, the distributor who brought the fish

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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to market, and the method of fishing used to harvest commercial fish species.

The legislature further finds that it is in the best interest of New York consumers, distributors, and retailers to have a program available that utilizes DNA barcoding identification techniques and includes traceability measures in order to provide more certainty when buying, selling, or consuming commercial food fish and shellfish.

S 3. Definitions. When used in this act, the following words shall have the following meanings:

(1) "Deoxyribonucleic acid (DNA) barcoding" shall mean the process by which a short gene sequence is taken from a particular standardized portion of an organism's genome and is used to identify the species through reference to DNA sequences documented in standardized libraries or databases.

(2) "Commercial food fish" shall mean all species of fresh or saltwater fish and other forms of aquatic animal life, other than shellfish, birds, and mammals caught or harvested, and intended for sale, or resale, or distribution and are intended for human consumption, including any edible human food products derived in whole or in part therefrom, including fish that have been processed in any manner.

(3) "Shellfish" shall mean any edible species of fresh or frozen oysters, clams, mussels, scallops or crustaceans, or edible portions thereof, intended for human consumption.

(4) "Traceability" shall mean the ability to trace and follow a commercial food fish or shellfish, through all stages of production, processing, and distribution.

S 4. New York state quality seafood certification program. (1) The commissioner of agriculture and markets is authorized to develop the New York state quality seafood certification program in order to create a reliable method to identify and certify commercial food fish and shellfish. Such program shall:

a. be developed with the intent to prevent fraud and safeguard public health and safety in relation to commercial food fish and shellfish offered for sale or sold at retail;

b. provide distributors, retailers, and restaurants that sell or serve commercial food fish or shellfish a method of accurately identifying and valuing such products;

c. utilize DNA barcoding or any other scientifically accepted standards to verify the identity of commercial food fish or shellfish;

d. use or reference federal, state, or private scientific libraries for commercial food fish and shellfish species identification;

e. develop traceability standards that provide consumers, retailers, and distributors with information related to such commercial food fish or shellfish; and

f. develop an industry acceptable and food and drug administration (FDA) compliant label or certification seal to be used by distributors and retailers for certified commercial food fish or shellfish.

(2) Participation in this program shall be voluntary. All commercial food fish or shellfish species sold under the New York state quality certified seafood program must meet all certification standards, rules, and regulations promulgated by the commissioner of agriculture and markets.

(3) The commissioner of agriculture and markets may:

a. promulgate any rules or regulations necessary for the establishment and implementation of the program and any other rules or regulations necessary to promote participation in the program;

b. request and receive from any state or local authority, agency, department or division of the state or political subdivision such assistance, personnel, information, books, records, other documentation and cooperation necessary to perform his or her duties; and

c. enter into cooperative agreements with other government offices to efficiently carry out his or her work.

S 5. This act shall take effect immediately.