AMENDMENT NO.______    Calendar No.______

Purpose: In the nature of a substitute.


S.1421

To require origin and location disclosure for new products of foreign origin offered for sale on the internet.

Referred to the Committee on ______________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by ______________

Viz:

1 Strike all after the enacting clause and insert the following:

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Country Of Origin Labeling Online Act” or the “COOL Online Act”.

4 SEC. 2. MANDATORY ORIGIN DISCLOSURE FOR NEW PRODUCTS OF FOREIGN ORIGIN OFFERED FOR SALE ON THE INTERNET.

5 (a) MANDATORY DISCLOSURE.—

6 (1) IN GENERAL.—

7 (A) DISCLOSURE.—Subject to the succeeding provisions of this paragraph, it shall be
unlawful for an online store, an online marketplace, or a seller to introduce, sell, or offer for sale on an internet website a product that is marked or required to be marked under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) unless the country of origin is disclosed in a conspicuous manner on the online store or online marketplace’s online description of the product and in a manner consistent with the regulations prescribed under such section 304 at the time of the product’s importation, or anticipated importation, into the customs territory of the United States.

(B) EXCLUSIONS.—

(i) AGRICULTURAL PRODUCTS.—The disclosure requirements under subparagraph (A) shall not apply to—

(I) a covered commodity (as defined in section 281 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638));

(II) a meat or meat food product subject to inspection under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);
(III) a poultry or poultry product subject to inspection under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); or

(IV) an egg product subject to regulation under the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

(ii) Food and Drugs.—The disclosure requirements under subparagraph (A) shall not apply to a food or drug (as those terms are defined in paragraphs (f) and (g), respectively, of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) that is subject to the jurisdiction of the Food and Drug Administration.

(iii) Used or Previously Owned Products.—The disclosure requirements under subparagraph (A) shall not apply to any used or previously owned products sold in interstate commerce.

(iv) Small Seller.—The disclosure requirements under subparagraph (A) shall not apply to goods listed by a small seller.

(C) Limitation of Liability.—
(i) **ONLINE STORE.**—An online store is not in violation of the requirements under subparagraph (A) if the online store provided its third party manufacturer, distributor, supplier, or private labeler with—

(I) a notice of their obligation to provide the country of origin to the store, if applicable; and

(II) the means to list directly, or provide to the online store for listing, the country of origin of the product.

(ii) **ONLINE MARKETPLACE.**—

(I) **IN GENERAL.**—Subject to subclause (II), an online marketplace is not in violation of the requirements under subparagraph (A) if the online marketplace provided its sellers with—

(aa) a notice of the seller’s obligation to provide country of origin information when selling a product; and

(bb) the means to list the country of origin in the product’s description.
(II) Exception.—Subclause (I) shall not apply when the online marketplace is selling the product itself, rather than only facilitating a sale by a seller and relying on a seller for that product’s information.

(iii) Seller.—A seller is not in violation of the requirements under subparagraph (A) if the online marketplace did not provide the seller with—

(I) the notice described in clause (ii)(I)(aa); or

(II) the means to list the county of origin in the product’s description as described in clause (ii)(I)(bb).

(D) Fungible Goods or Materials.—For the purposes of subparagraph (A) and in accordance with section 102.12(f) of title 19, Code of Federal Regulations, an online store, an online marketplace, or a seller is in compliance with the disclosure requirements under subparagraph (A) if it lists multiple countries of origin for products that are fungible goods or materials. Products shall be considered to be “fungible goods or materials” if the goods or
materials, as the case may be, are interchangeable for commercial purposes and have properties which are essentially identical.

(E) SAFE HARBOR.—An online store, an online marketplace, or a seller satisfies the disclosure requirements under subparagraph (A) if the online store, online marketplace, or seller relies on the country of origin representation provided by a third party manufacturer, importer, distributor, supplier, or private labeler of the product.

(2) CERTAIN DRUG PRODUCTS.—It shall be unlawful for an online store, an online marketplace, or a seller to offer for sale in commerce to consumers on an internet website a drug that is not subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)) and that is required to be marked under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) unless the internet website description of the drug indicates in a conspicuous place the name and place of business of the manufacturer, packer, or distributor that is required to appear on the label of the drug in accordance with section 502(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(b)).
(3) Obligation to Provide.—A manufacturer, importer, distributor, supplier, or private labeler seeking to have a product introduced, sold, advertised, or offered for sale in commerce shall provide the marking information required by section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) to the relevant online store, an online marketplace, or a seller who wishes to offer the product for sale on an internet website.

(b) Enforcement by the Commission.—

(1) Unfair or Deceptive Acts or Practices.—A violation of subsection (a) or a regulation promulgated thereunder shall be treated as a violation of a rule defining an unfair or deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of the Commission.—

(A) In General.—The Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section.
(B) PRIVILEGES AND IMMUNITIES.—Any person that violates subsection (a) shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.) as though all applicable terms and provisions of that Act were incorporated and made part of this section.

(C) AUTHORITY PRESERVED.—Nothing in this section may be construed to limit the authority of the Commission under any other provision of law.

(D) RULEMAKING.—

(i) IN GENERAL.—The Commission shall promulgate in accordance with section 553 of title 5, United States Code, such rules as may be necessary to carry out this section.

(ii) CONSULTATION.—In promulgating any regulations under clause (i), the Commission shall consult with U.S. Customs and Border Protection.

(3) INTERAGENCY AGREEMENT.—Not later than 6 months after the date of enactment of this section, the Commission, the Commissioner for U.S.
Customs and Border Protection, the Commissioner of Food and Drugs, the United States Trade Representative, and the Secretary of Agriculture shall—

(A) enter into a Memorandum of Understanding or other appropriate agreement for the purpose of providing consistent implementation of this section; and

(B) publish such Memorandum of Understanding or other agreement in order to provide public guidance.

(c) AUTHORITY RESERVED.—Nothing in this section may be construed to—

(1) limit the authority of the Department of Agriculture, the Food and Drug Administration, or U.S. Customs and Border Protection under any other provision of law; or

(2) require the Commission to interpret, modify, or enforce regulations promulgated by such agencies unless as provided by the Memorandum of Understanding or other agreement entered into under subsection (b)(3)(A).

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the publication of the Memorandum of Understanding or other agreement under subsection (b)(3)(B).
(e) Rule of Construction.—Nothing in this Act shall be construed to require an online store, an online marketplace, or a seller to include a description of a product introduced, sold, or offered for sale in interstate commerce other than a notice of the country of origin as required by subsection (a).

(f) Definitions.—In this section:


2. Online marketplace.—The term “online marketplace” has the meaning given such term in section 301(f) of the Consolidated Appropriations Act, 2023 (15 U.S.C. 45f(f)).

3. Online store.—The term “online store” means a person or entity that operates a consumer-directed, electronically based or accessed website that sells products to consumers over the internet for itself or on behalf of third party sellers.

4. Product.—The term “product” has the meaning given the term “article of foreign origin” in section 304 of the Tariff Act of 1930 (19 U.S.C. 1304).

5. Seller.—The term “seller” has the meaning given such term in section 301(f) of the Consolidated Appropriations Act, 2023 (15 U.S.C. 45f(f)).
(6) Small seller.—

(A) In general.—The term “small seller” means a seller on an online marketplace that, in any consecutive 12-month period during the previous 24 months, has—

(i) annual sales of less than an aggregate total of $20,000 in gross revenues; and

(ii) fewer than 200 discrete sales or transactions (excluding sales of used or previously owned products).

(B) Clarification.—For the purposes of calculating the number of discrete sales or transactions or the aggregate gross revenues under subparagraph (A), a seller shall only be required to count sales or transactions made through the online marketplace and for which payment was processed by the online marketplace, either directly of through its payment processor.

(7) Used or previously owned product.— The term “used or previously owned product” means a product that was previously sold or offered for sale in interstate commerce.
SEC. 3. COUNTRY OF ORIGIN LABELING FOR COOKED KING
CRAB AND TANNER CRAB AND COOKED AND
CANNED SALMON.

Section 281(7)(B) of the Agricultural Marketing Act
of 1946 (7 U.S.C. 1638(7)(B)) is amended—

(1) by striking the period at the end and inserting
a semicolon;

(2) by striking “includes a fillet” and inserting
the following: “includes—
“(i) a fillet”; and

(3) by adding at the end the following:
“(ii) whole cooked king crab and tan-
er crab and cooked king crab and tanner

crab sections; and

“(iii) cooked and canned salmon.”.