

1 SENATE BILL NO. 206

2 INTRODUCED BY A. OLSZEWSKI

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LABELING, MARKETING, AND
5 ADVERTISING OF LIVESTOCK AND POULTRY PRODUCTS; REQUIRING COUNTRY OF ORIGIN
6 PLACARDING FOR LIVESTOCK AND POULTRY PRODUCTS; PROVIDING PLACARDING STANDARDS;
7 PROVIDING PENALTIES; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO ADMINISTER
8 THE REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; PROHIBITING THE MARKETING,
9 ADVERTISING, OR LABELING OF CELL-CULTURED EDIBLE PRODUCTS AS LIVESTOCK OR POULTRY
10 PRODUCTS; PROVIDING DEFINITIONS; AMENDING SECTIONS 30-12-702, 50-31-103, 50-31-107, 50-31-110,
11 50-31-203, 50-31-208, 50-31-312, AND 81-9-217, MCA; REPEALING SECTION 30-12-703, MCA; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15

16 NEW SECTION. **Section 1. Short title.** This part may be cited as the "Country of Origin Placarding Act".

17

18 NEW SECTION. **Section 2. Placarding requirements -- removal of label prohibited -- exceptions.**

19 (1) Except as provided in subsections (3) and (5), livestock or poultry products that are born and raised and
20 processed in the United States and offered for sale in Montana must be accompanied by a placard that indicates
21 that the livestock or poultry products were born and raised and processed in the United States.

22 (2) Except as provided in subsections (3) and (5), a livestock or poultry product, including a package that
23 contains any blending of foreign and domestic livestock or poultry products from a country other than the United
24 States, was processed in the United States, and is offered for sale in Montana, must be accompanied by a
25 placard indicating to a consumer that the livestock or poultry product was processed in the United States.

26 (3) If the retailer or wholesaler verifies that the livestock or poultry product was processed outside of the
27 United States or is unable to determine in what country it was processed, then the livestock or poultry product
28 must be accompanied by a placard reading "processed outside of the USA".

29 (4) A retailer or wholesaler engaged in the business of selling livestock or poultry products that contain
30 labeling or require identification with country of origin requirements is prohibited from knowingly or purposely

1 removing a placard required by this section.

2 (5) A placard in accordance with this section is not required for prepared foods that are for immediate
3 sale or ready to eat.

4 (6) All placards required by this section must comply with federal regulations and may not obscure other
5 labeling information required by other federal regulations.

6
7 **NEW SECTION. Section 3. Penalties.** (1) A retailer or wholesaler of livestock or poultry products who
8 knowingly or purposely offers those products for sale without ensuring that the products are accompanied by a
9 placard in accordance with this part is subject to the following penalties:

10 (a) a fine not to exceed \$100 for a first offense;

11 (b) a fine not to exceed \$250 for a second offense; and

12 (c) a fine not to exceed \$500 for a third or subsequent offense.

13 (2) A retailer or wholesaler of livestock or poultry products who knowingly removes a placard required
14 by this part from those products is guilty of a misdemeanor and upon conviction shall be fined an amount not to
15 exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

16
17 **NEW SECTION. Section 4. Rulemaking.** (1) Except as provided in subsection (2), the department may
18 adopt rules necessary to administer this part. Rules may include but are not limited to:

19 (a) methods for determining the differences between imported and domestic livestock or poultry products;

20 (b) methods for delineating the differences between livestock or poultry products born and raised in the
21 United States and livestock or poultry products processed in the United States;

22 (c) placarding methods for livestock or poultry products; and

23 (d) any other requirements necessary for implementing this part.

24 (2) Rules may not unduly restrict the conduct of business in Montana.

25

26 **Section 5.** Section 30-12-702, MCA, is amended to read:

27 **"30-12-702. Definitions.** As used in this part, the following definitions apply:

28 (1) "Born and raised" means the country in which livestock or poultry was born and where it was grown
29 until the time it was processed.

30 (2) "Department" means the department of labor and industry established in 2-15-1701.

1 (3) "Knowingly" has the meaning provided in 45-2-101.

2 ~~(1) "Label" has the meaning provided in 50-31-103.~~

3 (4) "Labeling" has the meaning provided in 50-31-103.

4 (5) "Livestock" means cattle, buffalo, sheep, swine, goats, rabbits, horses, mules or other equines, and
5 alternative livestock as defined in 87-4-406.

6 (6) "Livestock or poultry product" means a product capable of use as human food that is made from
7 meat.

8 (7) "Meat" means the edible flesh of livestock or poultry.

9 ~~(2)(8)~~ "Package" has the meaning provided in 50-31-103.

10 (9) "Placard" means a nonpermanent sign used to display or describe meat for sale by a retailer or
11 wholesaler.

12 (10) "Poultry" means any domesticated bird.

13 (11) "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise
14 manufactured or processed.

15 (12) "Purposely" has the meaning provided in 45-2-101.

16 (13) "Retailer" means a person regularly engaged in the business of selling meat at retail to the public,
17 selling only to the user or consumer and not for resale.

18 (14) "Wholesaler" means a person regularly engaged in the business of selling meat at wholesale to
19 retailers for subsequent sale at retail to the public."

20

21 **Section 6.** Section 50-31-103, MCA, is amended to read:

22 **"50-31-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
23 apply:

24 (1) "Advertisement" means representations disseminated in any manner or by any means, other than
25 by labeling, for the purpose of inducing or that are likely to induce, directly or indirectly, the purchase of food,
26 drugs, devices, or cosmetics.

27 (2) "Beef patty mix" means "hamburger" or "ground beef" to which have been added binders or extenders
28 as those terms are understood by general custom and usage in the food industry.

29 (3) "Bottled water" means water that is intended for human consumption and that is sealed in bottles or
30 other containers with no added ingredients, except that bottled water may optionally contain safe and suitable

1 antimicrobial agents.

2 (4) "Cell-cultured edible products" means products used to replicate the concept of meat, including but
3 not limited to muscle cells, fat cells, connective tissue, blood, and other components produced via cell culture
4 rather than from a whole slaughtered animal.

5 ~~(4)~~(5) "Color" includes black, white, and intermediate grays.

6 ~~(5)~~(6) (a) "Color additive" means a material that:

7 (i) is a dye, pigment, or other substance made by a process of synthesis or similar artifice or that is
8 extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable,
9 animal, mineral, or other source; or

10 (ii) when added or applied to a food, drug, or cosmetic or to the human body is capable (alone or through
11 reaction with another substance) of imparting color to the human body.

12 (b) The term does not include material that has been or is exempted under the federal act.

13 ~~(6)~~(7) (a) "Consumer commodity", except as otherwise specifically provided by this subsection, means
14 any food, drug, device, or cosmetic as those terms are defined by this chapter or by the federal act and
15 regulations pursuant to the federal act.

16 (b) The term does not include:

17 (i) any tobacco or tobacco product;

18 (ii) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide,
19 Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.) or the provisions of the eighth paragraph under the
20 heading "Bureau of Animal Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151 through 157),
21 commonly known as the Virus-Serum-Toxin Act;

22 (iii) a drug subject to 50-31-306(1)(m) or 50-31-307(2)(c) or section 503(b)(1) or 506 of the federal act
23 (21 U.S.C. 353(b)(1) and 356);

24 (iv) a beverage subject to or complying with packaging or labeling requirements imposed under the
25 Federal Alcohol Administration Act (27 U.S.C. 201, et seq.); or

26 (v) a commodity subject to the Federal Seed Act (7 U.S.C. 1551 through 1610).

27 ~~(7)~~(8) "Contaminated with filth" applies to a food, drug, device, or cosmetic not securely protected from
28 dust, dirt, and, as far as may be necessary by all reasonable means, foreign, or injurious contaminations.

29 ~~(8)~~(9) (a) "Cosmetic" means:

30 (i) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied

1 to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

2 (ii) articles intended for use as a component of these articles.

3 (b) The term does not include soap.

4 ~~(9)~~(10) "Counterfeit drug" means a drug, drug container, or drug label that, without authorization, bears
5 the trademark, trade name, or other identifying mark, imprint, or device or any likeness of an identifying mark,
6 imprint, or device of a drug manufacturer, processor, packer, or distributor other than the person who in fact
7 manufactured, processed, packed, or distributed the drug and that falsely purports or is represented to be the
8 product of or to have been packed or distributed by the other drug manufacturer, processor, packer, or distributor.

9 ~~(10)~~(11) "Department" means the department of public health and human services provided for in
10 2-15-2201.

11 ~~(11)~~(12) "Device" (except when used in 50-31-107(2), 50-31-203(6), 50-31-306(1)(c) and (1)(q),
12 50-31-402(3), and 50-31-501(10)) means instruments, apparatus, and contrivances, including their components,
13 parts, and accessories, intended:

14 (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other
15 animals; or

16 (b) to affect the structure or function of the body of humans or other animals.

17 ~~(12)~~(13) "Dietary supplement" means a product, other than a tobacco product, that is intended to
18 supplement the diet and that:

19 (a) is advertised only as a food supplement;

20 (b) bears or contains one or more of the following ingredients:

21 (i) a vitamin;

22 (ii) a mineral;

23 (iii) an herb or other botanical substance;

24 (iv) an amino acid;

25 (v) a dietary substance used to supplement the diet by increasing the total dietary intake or a
26 concentrate, metabolite, constituent, extract, or combination of any ingredients described in subsections ~~(12)(b)(i)~~

27 (13)(b)(i) through ~~(12)(b)(iv)~~ (13)(b)(iv);

28 (c) conforms to any additional provisions for the definition of dietary supplement under 21 U.S.C. 321.

29 ~~(13)~~(14) "Drug" means:

30 (a) articles recognized in the official United States Pharmacopoeia, official National Formulary, or a

1 supplement to either of these;

2 (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in
3 humans or other animals;

4 (c) articles (other than food) intended to affect the structure or function of the body of humans or other
5 animals;

6 (d) articles intended for use as components of any article specified in subsection ~~(13)(a), (13)(b), or~~
7 ~~(13)(c)~~ (14)(a), (14)(b), or (14)(c) but does not include devices or their components, parts, or accessories.

8 ~~(14)~~(15) "Federal act" means the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301,
9 et seq.).

10 ~~(15)~~(16) "Food" means:

11 (a) articles used for food or drink for humans or other animals;

12 (b) chewing gum;

13 (c) articles used for components of these articles; and

14 (d) dietary supplements.

15 ~~(16)~~(17) (a) "Food additive" means a substance, the intended use of which results or may be reasonably
16 expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics
17 of food. The term includes a substance intended for use in producing, manufacturing, packing, processing,
18 preparing, treating, packaging, transporting, or holding food and a source of radiation intended for this use if the
19 substance is not generally recognized among experts qualified by scientific training and experience to evaluate
20 its safety as having been adequately shown through scientific procedures to be safe under the conditions of its
21 intended use. Alternatively, for a substance used in a food prior to January 1, 1958, the determination of safety
22 under the conditions of the substance's intended use may be through either scientific procedures or experience
23 based on common use in food.

24 (b) The term does not include:

25 (i) a pesticide chemical in or on a raw agricultural commodity;

26 (ii) a pesticide chemical to the extent that the pesticide chemical is intended for use or is used in the
27 production, storage, or transportation of a raw agricultural commodity;

28 (iii) a color additive;

29 (iv) a substance used in accordance with a sanction or approval granted prior to the enactment of the
30 Food Additives Amendment of 1958, pursuant to the federal act, the Poultry Products Inspection Act (21 U.S.C.

1 451, et seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C.
2 603, et seq.).

3 ~~(17)~~(18) "Food service establishment" means a retail food establishment defined in 50-50-102 and any
4 facility operated by a governmental entity where food is served.

5 ~~(18)~~(19) "Hamburger" or "ground beef" means ground fresh or frozen beef or a combination of both fresh
6 and frozen beef, with or without the addition of suet, to which no water, binders, or extenders are added. The term
7 does not include cell-cultured edible products. There are four grades of hamburger or ground beef:

8 (a) "regular hamburger" or "regular ground beef" may have:

9 (i) a fat content no greater than the federal standard set forth in 9 CFR 319.15; and

10 (ii) a lean content of no less than 70%;

11 (b) "lean hamburger" or "lean ground beef" may have:

12 (i) a fat content no greater than 22%; and

13 (ii) a lean content of no less than 78%;

14 (c) "extra lean hamburger" or "extra lean ground beef" may have:

15 (i) a fat content no greater than 16%; and

16 (ii) a lean content of no less than 84%; and

17 (d) "super lean hamburger" or "super lean ground beef" may have:

18 (i) a fat content no greater than 12%; and

19 (ii) a lean content of no less than 88%.

20 ~~(19)~~(20) "Honey" means the nectar and saccharine plant exudations, gathered, modified, and stored in
21 the comb by honey bees, that are levorotatory and that contain not more than 25% of water, not more than 0.25%
22 of ash, and not more than 8% sucrose.

23 ~~(20)~~(21) "Label" means a display of written, printed, or graphic matter on the immediate container of an
24 article. "Immediate container" does not include package liners.

25 ~~(21)~~(22) "Labeling" means labels and other written, printed, or graphic matter:

26 (a) on an article or its containers or wrappers;

27 (b) accompanying the article.

28 ~~(22)~~(23) "Menu" means a list presented to the patron that states the food items for sale in a food service
29 establishment.

30 ~~(23)~~(24) "New drug" means a drug, the composition of which:

1 (a) is not generally recognized among experts qualified by scientific training and experience to evaluate
2 the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed,
3 recommended, or suggested in the new drug's labeling; or

4 (b) has become recognized as a result of investigations to determine the new drug's safety and
5 effectiveness for use under the conditions prescribed but has not, other than in the investigations, been used to
6 a material extent or for a material time under the conditions prescribed.

7 ~~(24)~~(25) "Official compendium" means the official United States Pharmacopoeia, official National
8 Formulary, or a supplement to either of these.

9 ~~(25)~~(26) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for
10 use in the delivery or display of that consumer commodity to retail purchasers.

11 (b) The term does not include:

12 (i) shipping containers or wrappings used solely for the transportation of a consumer commodity in bulk
13 or in quantity to manufacturers, packers, or processors or to wholesale or retail distributors;

14 (ii) shipping containers or outer wrappings used by retailers to ship or deliver a commodity to retail
15 customers if the containers and wrappings bear no printed matter pertaining to a particular commodity.

16 ~~(26)~~(27) "Person" includes an individual, partnership, corporation, and association.

17 ~~(27)~~(28) "Pesticide chemical" means a substance that alone, in chemical combination, or in formulation
18 with one or more other substances is an "economic poison" under the Federal Insecticide, Fungicide, and
19 Rodenticide Act (7 U.S.C. 136, et seq.), as amended, and that is used in the production, storage, or transportation
20 of raw agricultural commodities.

21 ~~(28)~~(29) "Placard" means a nonpermanent sign used to display or describe food items for sale in a food
22 service establishment or retail meat establishment.

23 ~~(29)~~(30) "Principal display panel" means that part of a label that is most likely to be displayed, presented,
24 shown, or examined under normal and customary conditions of display for retail sale.

25 ~~(30)~~(31) "Processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating,
26 extracting, cutting, freezing, or otherwise manufacturing a food or changing the physical characteristics of a food
27 and the enclosure of the food in a package.

28 ~~(34)~~(32) "Raw agricultural commodity" has the meaning as provided in 50-50-102.

29 ~~(32)~~(33) "Retail meat establishment" means a commercial establishment at which meat or meat products
30 are displayed for sale or provision to the public, with or without charge.

1 ~~(33)~~(34) "Synthetically compounded" means a product formulated by a process that chemically changes
2 a material or substance extracted from naturally occurring plant, animal, or mineral sources, except for
3 microbiological processes."
4

5 **Section 7.** Section 50-31-107, MCA, is amended to read:

6 **"50-31-107. False or misleading representations.** (1) An advertisement of a food, drug, device, or
7 cosmetic shall be deemed to be false if it is false or misleading in any particular.

8 (2) If an article is alleged to be misbranded because the labeling is misleading or if an advertisement is
9 alleged to be false because it is misleading, then in determining whether the labeling or advertisement is
10 misleading there shall be taken into account not only representations made or suggested by statement, word,
11 design, device, sound, or a combination of these but also the extent to which the labeling or advertisement fails
12 to reveal facts material in the light of the representations or material with respect to consequences which may
13 result from the use of the article to which the labeling or advertisement relates under the conditions of use
14 prescribed in the labeling or advertisement or under conditions of use as are customary or usual.

15 (3) (a) Cell-cultured edible products may not be labeled, advertised, or marketed in Montana as a
16 livestock product or poultry product as defined in 81-9-217 or be labeled, advertised, or marketed by their product
17 names, including but not limited to steaks, roasts, hamburger, ground beef, chops, wings, thighs, or ribs.

18 (b) A cell-cultured edible product that is labeled, advertised, or marketed as a livestock product or poultry
19 product has false or misleading labeling."
20

21 **Section 8.** Section 50-31-110, MCA, is amended to read:

22 **"50-31-110. Certain agricultural chemicals not color additives.** Subsections ~~(4) and (5)~~ (5) and (6)
23 of 50-31-103 do not apply to a pesticide chemical, soil or plant nutrient, or other agricultural chemical that affects
24 the color of produce of the soil, whether before or after harvest, solely because of its effect in aiding, retarding,
25 or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the
26 soil."
27

28 **Section 9.** Section 50-31-203, MCA, is amended to read:

29 **"50-31-203. When food misbranded.** A food is considered to be misbranded if:

30 (1) its labeling is false or misleading in any particular;

- 1 (2) it is offered for sale under the name of another food;
- 2 (3) it is an imitation of another food for which a definition and standard of identity has been prescribed
3 by regulations as provided by 50-31-201 or if it is an imitation of another food that is not subject to subsection (7)
4 of this section, unless its label bears in type of uniform size and prominence the word ~~imitation~~ "imitation" and,
5 immediately after that word, the name of the food imitated;
- 6 (4) its container is made, formed, or filled in a manner that is misleading;
- 7 (5) it is in package form, unless it bears a label containing:
- 8 (a) the name and place of business of the manufacturer, packer, or distributor;
- 9 (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical
10 count, provided that reasonable variations must be permitted and exemptions as to small packages must be
11 established by regulations prescribed by the department;
- 12 (6) any word, statement, or other information required by or under authority of this chapter to appear on
13 the label or labeling is not prominently placed on the label or labeling with such conspicuousness (as compared
14 with other words, statements, designs, or devices in the labeling) and in terms that render it likely to be read and
15 understood by the ordinary individual under customary conditions of purchase and use;
- 16 (7) it purports to be or is represented as a food for which a definition and standard of identity have been
17 prescribed by regulations as provided by 50-31-201, unless:
- 18 (a) it conforms to that definition and standard; and
- 19 (b) its label bears the name of the food specified in the definition and standard and, as may be required
20 by the regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present
21 in the food;
- 22 (8) it purports to be or is represented as:
- 23 (a) a food for which a standard of quality has been prescribed by regulations as provided by 50-31-201
24 and its quality falls below that standard, unless its label bears, in a manner and form that the regulations specify,
25 a statement that it falls below that standard; or
- 26 (b) a food for which a standard or standards of fill of container have been prescribed by regulation as
27 provided by 50-31-201 and it falls below the standard of fill of container applicable, unless its label bears, in a
28 manner and form that the regulations specify, a statement that it falls below that standard;
- 29 (9) it is not subject to the provisions of subsection (7) unless it bears labeling clearly giving:
- 30 (a) the common or usual name of the food, if there is one; and

1 (b) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient,
 2 except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices,
 3 flavorings, and colorings without naming each. To the extent that compliance with the requirements of this
 4 subsection (9)(b) is impractical or results in deception or unfair competition, exemptions must be established by
 5 regulations promulgated by the department. The requirements of this subsection (9)(b) do not apply to food
 6 products that are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are
 7 disclosed to the purchasers by other means in accordance with regulations promulgated by the department.

8 (10) it purports to be or is represented for special dietary uses, unless its label bears information
 9 concerning its vitamin, mineral, and other dietary properties that the department determines to be and by
 10 regulations prescribes as necessary in order to fully inform purchasers as to its value for special dietary uses;

11 (11) it bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless it bears
 12 labeling stating that fact. To the extent that compliance with the requirements of this subsection is impracticable,
 13 exemptions must be established by regulations promulgated by the department. Butter, cheese, ice cream, and
 14 frozen desserts as described in 81-22-101 are exempt from label statements for artificial flavoring and artificial
 15 coloring.

16 (12) it is a product intended as an ingredient of another food and when used according to the directions
 17 of the purveyor will result in the final food product being adulterated or misbranded;

18 (13) it is a color additive, unless its packaging and labeling are in conformity with packaging and labeling
 19 requirements applicable to that color additive prescribed under the provisions of the federal act, or

20 (14) it is a cell-cultured edible product labeled, advertised, or marketed as a livestock product or poultry
 21 product as defined in 81-9-217."

22

23 **Section 10.** Section 50-31-208, MCA, is amended to read:

24 **"50-31-208. Sale of hamburger and beef patty mix.** (1) A food service establishment or retail meat
 25 establishment may not use the terms "hamburger", "burger", or other similar term in any advertisement or menu
 26 to refer to any beef patty mix. A food service establishment or retail meat establishment selling or serving beef
 27 patty mix may refer to the product as "beef patty mix" or by any other term that accurately informs the customer
 28 of the nature of the food product being sold or served.

29 (2) If beef patty mix is sold or served in a food service establishment or retail meat establishment, a list
 30 of ingredients must appear on the menu or label or, if there is not a menu or label, on a placard as follows:

1 (a) The term "beef patty mix" or any other term that accurately informs the customer of the nature of the
2 food product and its ingredients must be included.

3 (b) The ingredients must be listed in descending order of predominance by weight.

4 (c) The lettering on the placard must be at least 1 inch in height (72-point letters), in boldface, and in
5 colors that contrast with the placard.

6 (d) The placard must be posted in a permanent place, conspicuous to the customer, in each room or
7 area where food is served or sold at retail.

8 (3) If hamburger or ground beef is sold in a retail meat establishment, the grade of hamburger or ground
9 beef, as enumerated in ~~50-31-103(18)~~ 50-31-103(19), and the maximum fat and minimum lean content must
10 appear on each displayed package or, if the product is not packaged for display, on a placard. If a placard is
11 used, it must satisfy the requirements of subsections (2)(c) and (2)(d). The provisions of this subsection do not
12 apply to the service of prepared hamburger or ground beef at a food service establishment."
13

14 **Section 11.** Section 50-31-312, MCA, is amended to read:

15 **"50-31-312. Exemptions from new drug application requirement.** (1) Section 50-31-311 does not
16 apply to:

17 (a) a drug intended solely for investigational use by experts qualified by scientific training and experience
18 to investigate the safety and effectiveness of drugs, provided the drug is plainly labeled in compliance with
19 regulations issued by the department or pursuant to section 505(i) or 507(d) of the federal act (21 U.S.C. 355(i)
20 or 357(d));

21 (b) a drug sold in this state at any time prior to the enactment of this chapter or introduced into interstate
22 commerce at any time prior to the enactment of the federal act;

23 (c) any drug that is manufactured by an establishment licensed under 42 U.S.C. 262; or

24 (d) any drug that is subject to 50-31-306(1)(n).

25 (2) The provisions of ~~50-31-103(23)~~ 50-31-103(24) do not apply to any drug, when the drug is intended
26 solely for use under conditions prescribed, recommended, or suggested in labeling with respect to the drug, that
27 on October 9, 1962, or on the date immediately preceding July 1, 1967:

28 (a) was commercially sold or used in this state or in the United States;

29 (b) was not a new drug as defined by ~~50-31-103(23)~~ 50-31-103(24) as then in force; and

30 (c) was not covered by an effective application under 50-31-311 or under section 505 of the federal act

1 (21 U.S.C. 355)."

2

3 **Section 12.** Section 81-9-217, MCA, is amended to read:

4 **"81-9-217. Definitions.** As used in 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236, the
5 following definitions apply:

6 (1) "Adulterated" means the term applied to meat if:

7 (a) it bears or contains a poisonous or deleterious substance that may render it injurious to health, except
8 that if the substance is not an added substance, the product may not be considered adulterated if the quantity
9 of the substance is insufficient to ordinarily render it injurious to health;

10 (b) it bears or contains, by reason of administration of any substance to the meat, an added poisonous
11 or added deleterious substance other than a color additive, a food additive, or a pesticide chemical in or on a raw
12 agricultural commodity, any of which may in the board's judgment make the meat unfit for human food;

13 (c) it is in whole or in part a raw agricultural commodity and bears or contains a pesticide chemical that
14 is unsafe as provided in the Federal Food, Drug and Cosmetic Act;

15 (d) it bears or contains a food additive that is unsafe as provided in the Federal Food, Drug and Cosmetic
16 Act;

17 (e) it bears or contains a color additive that is unsafe as provided in the Federal Food, Drug and
18 Cosmetic Act; ~~however,~~ However, the meat that is not otherwise considered adulterated under subsection (1)(c),
19 (1)(d), or this subsection (1)(e) is considered adulterated if use of the pesticide chemical, food additive, or color
20 additive in or on the article is prohibited by rule of the board;±

21 (f) it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason
22 unsound, unhealthful, unwholesome, or otherwise unfit for human food;

23 (g) it has been prepared, packed, or held under unsanitary conditions whereby it may have become
24 contaminated with filth or rendered injurious to health;

25 (h) it is in whole or in part the product of an animal, including poultry, that has died otherwise than by
26 slaughter;

27 (i) its container is composed in whole or in part of any poisonous or deleterious substance that may
28 render the contents injurious to health;

29 (j) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with
30 a regulation or exemption in effect pursuant to 21 U.S.C. 348; or

1 (k) any valuable constituent has been in whole or in part omitted or abstracted from the meat, any
2 substance has been substituted wholly or in part for meat, damage or inferiority has been concealed in any
3 manner, or any substance has been added to it or mixed or packed with it so as to increase its bulk or weight or
4 make it appear better or of greater value than it is.

5 (2) "Cell-cultured edible product" means a product used to replicate the concept of meat, including but
6 not limited to muscle cells, fat cells, connective tissue, blood, and other components produced via cell culture
7 rather than from a whole slaughtered animal.

8 ~~(2)~~(3) "Chief" means the chief meat inspector appointed as provided in 81-9-226.

9 ~~(3)~~(4) "Federal Food, Drug and Cosmetic Act" means 21 U.S.C. 301 through 392, as that law read on
10 October 1, 1987.

11 ~~(4)~~(5) "Livestock" means cattle, buffalo, sheep, swine, goats, rabbits, horses, mules or other equines,
12 and alternative livestock, as defined in 87-4-406, whether alive or dead.

13 ~~(5)~~(6) (a) "Livestock product" or "poultry product" means a product capable of use as human food that
14 is wholly or partially made from meat and is not specifically exempted by rule of the board.

15 (b) The term does not include a cell-cultured edible product.

16 ~~(6)~~(7) "Meat" means the edible flesh of livestock or poultry and includes livestock and poultry products.

17 ~~(7)~~(8) "Misbranded" means the term applied to meat:

18 (a) if its labeling is false or misleading in any particular;

19 (b) if it is offered for sale under the name of another food;

20 (c) if it is an imitation of a meat product, unless its label bears, in type of uniform size and prominence,
21 the word "imitation" and immediately thereafter the name of the food being imitated;

22 (d) if its container is so made, formed, or filled as to be misleading;

23 (e) if it does not bear a label showing:

24 (i) the name and place of business of the manufacturer, packer, or distributor; and

25 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count.

26 The board may adopt rules exempting small meat packages, meat not in containers, and other reasonable
27 variations.

28 (f) if any word, statement, or other information required by 81-9-216 through 81-9-220 and 81-9-226
29 through 81-9-236 to appear on the label is not prominently placed on the label, as compared with other words,
30 statements, designs, or devices in the labeling, and is not stated in terms that render it likely to be read and

1 understood by the ordinary individual under customary conditions of purchase and use;

2 (g) if it is represented as a food for which a definition and standard of identity or composition has been
3 prescribed by the rules of the board, unless:

4 (i) it conforms to the definition and standard; and

5 (ii) its label bears the name of the food specified in the definition and standard and, if required by the
6 rules, the common names of optional ingredients present in the food, other than spices, flavoring, and coloring;

7 (h) if it is represented as a food for which a standard of fill of container has been prescribed by rules of
8 the board and it falls below the standard of fill of container applicable to the food, unless its label bears, in the
9 manner and form that the rules specify, a statement that it falls below the standard;

10 (i) if it is not subject to the provisions of subsection ~~(7)(g)~~ (8)(g), unless its label bears:

11 (i) the common or usual name of the food, if any; and

12 (ii) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient,
13 except that spices, flavorings, and colorings may, when authorized by the board, be designated as spices,
14 flavorings, and colorings without naming each. To the extent that compliance with the requirements of this
15 subsection ~~(7)(i)(ii)~~ (8)(i)(ii) is impracticable or results in deception or unfair competition, exemptions must be
16 established by rules promulgated by the board.

17 (j) if it purports to be for special dietary uses, unless its label bears information concerning its vitamin,
18 mineral, and other dietary properties as the board, after consultation with the U.S. secretary of agriculture, by rule
19 prescribes as necessary in order to fully inform purchasers as to its value for those uses;

20 (k) if it bears or contains an artificial flavoring, artificial coloring, or chemical preservative, unless it bears
21 labeling stating that fact, provided that to the extent that compliance with the requirements of this subsection ~~(7)(k)~~
22 (8)(k) is impracticable, exemptions must be established by rules promulgated by the board; or

23 (l) if it fails to bear directly on the meat and on its containers, as the board may by rule prescribe, the
24 official inspection legend and establishment number of the establishment where the product was prepared and
25 other information that the board may require to ensure that it will not have false or misleading labeling and that
26 the public will be informed of the manner of handling required to maintain the meat in a wholesome condition; or

27 (m) if it is a cell-cultured edible product labeled, advertised, or marketed as a livestock product or poultry
28 product or labeled, advertised, or marketed by a livestock product or poultry product name, including but not
29 limited to steaks, roasts, hamburger, ground beef, chops, wings, thighs, or ribs.

30 ~~(8)(9)~~ (a) "Mobile slaughter facility" means a mobile unit that is operated by a person licensed by the

1 board to slaughter livestock or poultry, that is capable of providing onsite slaughter services for the owner of the
2 livestock or poultry, and at which inspection of the slaughter of livestock or poultry or the preparation of meat food
3 products is regulated under 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236.

4 (b) The term does not mean a person engaged in custom slaughtering as provided in 81-9-218(2).

5 ~~(9)~~(10) "Official establishment" means an establishment licensed by the board at which inspection of the
6 slaughter of livestock or poultry or the preparation of meat food products is maintained under 81-9-216 through
7 81-9-220 and 81-9-226 through 81-9-236. The term includes a mobile slaughter facility.

8 ~~(10)~~(11) "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" have the
9 same meanings as provided in 21 U.S.C. 321.

10 ~~(11)~~(12) "Poultry" means any domesticated bird, whether alive or dead.

11 ~~(12)~~(13) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise
12 manufactured or processed."

13

14 NEW SECTION. **Section 13. Repealer.** The following section of the Montana Code Annotated is
15 repealed:

16 30-12-703. Labeling permitted.

17

18 NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 4] are intended to be
19 codified as an integral part of Title 30, chapter 12, part 7, and the provisions of Title 30, chapter 12, part 7, apply
20 to [sections 1 through 4].

21

22 NEW SECTION. **Section 15. Severability.** If a part of [this act] is invalid, all valid parts that are
23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
24 the part remains in effect in all valid applications that are severable from the invalid applications.

25

26 NEW SECTION. **Section 16. Effective date.** [This act] is effective on passage and approval.

27

- END -