

1 SENATE BILL NO. 161  
2 INTRODUCED BY G. HERTZ  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REGULATION AND SALE OF  
5 AQUACULTURE; PROVIDING DEFINITIONS; PROVIDING EXEMPTIONS; PROVIDING RULEMAKING  
6 AUTHORITY; AND AMENDING SECTIONS 30-12-301, 50-49-203, 50-50-102, AND 80-3-302, MCA."

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

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10 **Section 1.** Section 30-12-301, MCA, is amended to read:

11 **"30-12-301. Method of sale of commodities -- general.** (1) Commodities in liquid form may be sold  
12 only by liquid measure or by weight, and, except as otherwise provided in parts 1 through 5, commodities not in  
13 liquid form may be sold only by weight, by measure of length or area, or by count. Liquid commodities may be  
14 sold by weight and commodities not in liquid form may be sold by count only if those methods give accurate  
15 information as to the quantity of commodity sold. This section does not apply to:

16 (a) commodities when sold for immediate consumption on the premises where sold;  
17 (b) vegetables when sold by the head or bunch;  
18 (c) commodities in containers standardized by a law of this state or by federal law;  
19 (d) commodities in package form when there exists a general consumer usage to express the  
20 quantity in some other manner;

21 (e) concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel,  
22 crushed stone, and the like, when sold by cubic measure;

23 (f) unprocessed vegetable and animal fertilizer when sold by cubic measure;

24 (g) cottage food products as defined in 50-50-102; or

25 (h) homemade food or homemade food products sold pursuant to Title 50, chapter 49, part 2; or

26 (i) aquaculture products as defined in 80-3-302.

27 (2) The department may adopt reasonable rules necessary to ensure that amounts of commodity  
28 sold are determined in accordance with good commercial practice and are determined and represented as to

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2       **Section 4.** Section 80-3-302, MCA, is amended to read:

3       **"80-3-302. Definitions.** As used in this part, unless the context indicates otherwise, the following

4 definitions apply:

5       (1)     "Aquaculture" means the COMMERCIAL production of aquatic organisms under controlled  
6     conditions throughout part or all of their life cycle.

7       (2)     "Aquaculture products" means articles used for human consumption produced by aquaculture.

8     The term includes but is not limited to fish, shellfish, and aquatic plants.

9       (1)(3)    "Container" means any package, sack, box, crate, carton, basket, or other object used for the  
10    shipping of produce.

11       (4)     (a) "Controlled conditions" means the management of water quality, feed, stocking density, and  
12    environmental parameters within an aquatic system to optimize the growth and health of farmed aquatic  
13    organisms. CONTROLLED CONDITIONS INCLUDE THE CONDITIONS REQUIRED BY A CONTROLLED SPECIES PERMIT OR A  
14    PROHIBITED SPECIES PERMIT ISSUED PURSUANT TO TITLE 87, CHAPTER 5, PART 7.

15       (b)     The term does not include a pond, lake, reservoir, river, ocean, or stream.

16       (2)(5)    "Director" means the director of agriculture appointed pursuant to 2-15-3001.

17       (3)(6)    "Person" means an individual, firm, association, corporation, partnership, or any other form of  
18    business enterprise.

19       (4)(7)    (a) "Produce" means any fruit, vegetable, aquaculture product, or other natural product  
20    designated by department rule.

21       (b)     The term does not include livestock and its byproducts, poultry and its byproducts, apiary  
22    products, dairy products, or grain.

23       (5)(8)    "Produce dealer" means a person who engages in a business involving or who as part of a  
24    business participates in purchasing, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer  
25    of produce in this state, except vegetative seed potato products intended or used for planting purposes.

26       (6)(9)    "Produce unit" means the standard size container for a given type of produce. A produce unit  
27    may be established by department rule.

28       (7)(10)   "Retail" means sale of produce to the ultimate consumer.

1           (8)(11) "Shipping point inspection" means an inspection of produce at the location from which it was  
2        shipped.

3           (9)(12) "Stop sale order" means a written notice to hold produce from sale or movement until a  
4        violation has been resolved and the produce is released by the department.

5           (10)(13)(a) "Wholesale" means the sale of produce intended for resale.

6           (b)       The term does not include the sale of Montana-grown produce when sold by the Montana  
7        grower for purposes of resale or vegetative seed potato products intended or used for planting purposes."

8           - END -