

SENATE BILL NO. 161

INTRODUCED BY G. HERTZ

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

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

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

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

- (a) commodities when sold for immediate consumption on the premises where sold;
- (b) vegetables when sold by the head or bunch;
- (c) commodities in containers standardized by a law of this state or by federal law;
- (d) commodities in package form when there exists a general consumer usage to express the quantity in some other manner;
- (e) concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure;
- (f) unprocessed vegetable and animal fertilizer when sold by cubic measure;
- (g) cottage food products as defined in 50-50-102; ~~or~~
- (h) homemade food or homemade food products sold pursuant to Title 50, chapter 49, part 2; or
- (i) aquaculture products as defined in 80-3-302.

(2) The department may adopt reasonable rules necessary to ensure that amounts of commodity 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           ~~(4)~~(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.

- 2025

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