

SENATE BILL NO. 386

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MONTANA LOCAL MEAT ACT; EXEMPTING CERTAIN MEAT FOOD PROCESSORS FROM FOOD LICENSURE, PERMITTING, CERTIFICATION, PACKAGING, LABELING, AND INSPECTION REGULATIONS, AS WELL AS CERTAIN OTHER STANDARDS AND REQUIREMENTS UNDER CERTAIN CONDITIONS; PROVIDING EXCEPTIONS TO CERTAIN REQUIREMENTS; REVISING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 30-12-301, 50-31-104, 50-31-106, 50-31-108, 50-31-201, 50-50-102, 50-50-103, 50-50-121, 50-50-301, 50-57-102, 81-2-102, 81-2-105, 81-9-201, 81-9-217, 81-9-218, 81-9-219, 81-9-220, AND 81-9-234, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 3] may be cited as the "Montana Local Meat Act".

(2) The purpose of this part is to allow for the sale and consumption of local meat and local meat products and to encourage the expansion of agricultural sales by ranches, farms, and home-based processors and the accessibility of local meat and local meat products to informed end consumers by:

- (a) facilitating the purchase and consumption of local meat and local meat products;
- (b) enhancing the agricultural economy; and
- (c) providing Montana citizens with unimpeded access to local meat and local meat products from known sources.

NEW SECTION. Section 2. Definitions. For the purposes of this part, the following definitions apply:

- (1) "Deliver" means to transfer a local meat or local meat product as a result of a transaction between a processor or the processor's designated agent and an informed end consumer. The action may be performed by the processor or the processor's designated agent at a farm, ranch, home, office, other private

property, or another location agreed to between the processor or the processor's designated agent and the informed end consumer.

(2) "Informed end consumer" means a person who is the last person to purchase a local meat or local meat product, does not resell the local meat or local meat product, and has been informed that the product is not licensed, permitted, certified, packaged, labeled, or inspected according to any official regulations.

(3) "Livestock" means cattle, sheep, swine, and goats.

(4) (a) "Local meat" or "local meat product" means the edible flesh of livestock and includes livestock products that are either prepared on a processor's premises or custom slaughtered as provided in 81-9-218 and that are not licensed, permitted, certified, packaged, labeled, or inspected according to any official regulations.

(b) This term does not include cell-cultured edible products as defined in 81-9-217.

(5) "Processor" means a person that is engaged in the slaughter and processing of livestock that are raised by the processor and slaughtered and processed on the processor's premises or custom slaughtered as provided in 81-9-218.

(6) "Processor's premises" means any type of structure or building and real property owned or leased by a processor where livestock raised by the processor are slaughtered and processed.

(7) "Transaction" means an exchange of buying and selling, including the transfer of a local meat or local meat product by delivery.

NEW SECTION. Section 3. Exemptions from regulations -- transactions -- information required

-- exceptions. (1) (a) A state agency or an agency of a political subdivision of the state may not require licensure, permitting, certification, packaging, labeling, testing, sampling, or inspection that pertains to the preparation, serving, use, consumption, delivery, or storage of local meat or local meat product under this part.

(b) This part does not preclude an agency from providing assistance, consultation, or inspection on request by a processor.

(c) A processor under this part is not subject to labeling, licensure, inspection, sanitation, or other requirements or standards of 30-12-301; Title 50, chapters 31 and 50; or Title 81, chapters 2 and 9.

(2) Pursuant to this part, a transaction:

1 (a) must be made directly between the processor and the informed end consumer;

2 (b) must occur only in this state and may not involve interstate commerce; and

3 (c) is not subject to regulation by a board of county commissioners pursuant to 7-21-3301.

4 (3) A processor shall inform an end consumer that any local meat or local meat product sold
5 through ranch, farm, or home-based sales pursuant to this part has not been licensed, permitted, certified,
6 packaged, labeled, or inspected according to any official regulations.

7 (4) (a) A processor may sell local meat or local meat product from livestock raised by the
8 processor that were slaughtered on the processor's premises or custom slaughtered as provided in 81-9-218
9 only when:

10 (i) the local meat or local meat product is produced from livestock that is raised, slaughtered,
11 processed, and sold in the state;

12 (ii) the local meat or local meat product is sold directly to an informed end consumer in the state,
13 whether for consumption on or off the premises; and

14 (iii) a prominent written warning statement is provided to the informed end consumer at the time of
15 sale or displayed on a label affixed to the meat product packaging. The warning must:

16 (A) state that the local meat or local meat product has not been inspected and is not regulated
17 under Title 81, chapter 9;

18 (B) state that an informed end consumer who obtains local meat or local meat product pursuant to
19 this part agrees not to sell, donate, or commercially redistribute the local meat or local meat product; and

20 (C) provide information describing the standards used by the processor with respect to the
21 livestock health and in the processing of meat from the livestock.

22 (b) The processor may not publish a statement associated with the local meat or local meat
23 product specified in this part that implies the department of public health and human services or the department
24 of livestock approve of or endorse local meat or local meat product delivered under this part.

25
26 **Section 4.** Section 30-12-301, MCA, is amended to read:

27 **"30-12-301. Method of sale of commodities -- general.** (1) Commodities in liquid form may be sold
28 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) local meat or local meat product sold pursuant to [sections 1 through 3].

(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 be accurate and informative to all parties at interest."

Section 5. Section 50-31-104, MCA, is amended to read:

"50-31-104. Department authorized to adopt rules. (1) The department may adopt rules for the efficient enforcement of this chapter. The department may adopt by reference the regulations adopted by the food and drug administration under the federal act and the Fair Packaging and Labeling Act (15 U.S.C. 1451, et seq.).

(2) No hearing is required for adoption by reference of those regulations adopted under the federal act and the Fair Packaging and Labeling Act (15 U.S.C. 1451, et seq.).

(3) The department may not establish rules related to enforcement of this chapter for:

- (a) homemade food or a homemade food product sold pursuant to Title 50, chapter 49, part 2; or
- (b) local meat or local meat product sold pursuant to [sections 1 through 3]."

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2 **Section 6.** Section 50-31-106, MCA, is amended to read:

3 **"50-31-106. Inspections and taking of samples authorized.** (1) The department or its authorized
4 agents have free access at all reasonable hours to any factory, warehouse, or establishment in which foods,
5 drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce or to
6 any vehicle being used to transport or hold the foods, drugs, devices, or cosmetics in commerce, for the
7 purpose of:

8 (a) inspecting the factory, warehouse, establishment, or vehicle to determine if any of the
9 provisions of this chapter are being violated; and

10 (b) securing samples or specimens of any food, drug, device, or cosmetic after paying or offering
11 to pay for the sample.

12 (2) The department shall make or cause to be made examinations of samples secured under the
13 provisions of this section to determine whether or not any provision of this chapter is being violated.

14 (3) Pursuant to Title 50, chapter 49, part 2, the department may not conduct inspections of or take
15 samples from producers as defined in 50-49-202.

16 (4) Pursuant to [sections 1 through 3], the department may not conduct inspections or take
17 samples from a processor or a processor's premises as defined in [section 2]."

18

19 **Section 7.** Section 50-31-108, MCA, is amended to read:

20 **"50-31-108. Regulations concerning additives.** (1) The department, upon its own motion or upon
21 the petition of any interested party requesting that a rule be established, whenever public health or other
22 considerations in the state require, is authorized to adopt, amend, or repeal rules, whether or not in accordance
23 with regulations promulgated under the federal act, prescribing tolerances for any added poisonous or
24 deleterious substances for food additives, for pesticide chemicals in or on raw agricultural commodities, or for
25 color additives, including but not limited to zero tolerances and exemptions from tolerances in the case of
26 pesticide chemicals in or on raw agricultural commodities, and prescribing the conditions under which a food
27 additive or a color additive may be safely used and exemptions when the food additive or color additive is to be
28 used solely for investigational or experimental purposes.

1 (2) A petitioner shall establish by data submitted to the department that a necessity exists for the
2 rule and that its effect will not be detrimental to the public health. If the data furnished by the petitioner is not
3 sufficient to allow the department to determine whether the regulation should be promulgated, the department
4 may require additional data to be submitted and failure to comply with the request is sufficient grounds to deny
5 the request.

6 (3) In adopting, amending, or repealing rules relating to the substances, the department shall
7 consider among other relevant factors the following, which the petitioner, if any, shall furnish:

8 (a) the name and all pertinent information concerning the substance, including, when available:

9 (i) its chemical identity and composition;

10 (ii) a statement of the conditions of the proposed use, including directions, recommendations, and
11 suggestions and including specimens of proposed labeling; and

12 (iii) all relevant data bearing on the physical or other technical effect and the quantity required to
13 produce the effect;

14 (b) the probable composition of or other relevant exposure from the article and of any substance
15 formed in or on a food, drug, or cosmetic resulting from the use of the substance;

16 (c) the probable consumption of the substance in the diet of humans and animals taking into
17 account any chemically or pharmacologically related substance in the diet;

18 (d) safety factors that, in the opinion of experts qualified by scientific training and experience to
19 evaluate the safety of the substances for the use or uses for which they are proposed to be used, are generally
20 recognized as appropriate for the use of animal experimentation data;

21 (e) the availability of any needed practicable methods of analysis for determining the identity and
22 quantity of:

23 (i) the substance in or on an article;

24 (ii) any substance formed in or on the article because of the use of the substance; and

25 (iii) the pure substance and all intermediates and impurities; and

26 (f) facts supporting a contention that the proposed use of the substance will serve a useful
27 purpose.

28 (4) The department may not establish rules related to food additives under this section for:

1 (a) ____ homemade food or a homemade food product sold pursuant to Title 50, chapter 49, part 2; or

2 (b) ____ local meat or local meat product sold pursuant to [sections 1 through 3]."

3
4 **Section 8.** Section 50-31-201, MCA, is amended to read:

5 **"50-31-201. Department authorized to adopt food standards.** (1) Whenever in the judgment of the
6 department such action will promote honesty and fair dealing in the interest of consumers, the department shall
7 adopt regulations fixing and establishing for any food or class of food a reasonable definition and standard of
8 identity, standard of quality, and/or fill of container.

9 (2) In prescribing a definition and standard of identity for any food or class of food in which optional
10 ingredients are permitted, the department shall, for the purpose of promoting honesty and fair dealing in the
11 interest of consumers, designate the optional ingredients which must be named on the label.

12 (3) The definitions and standards must conform as much as practicable to the definitions and
13 standards promulgated under authority of the federal act, or the department may adopt by reference the
14 definitions and standards promulgated under authority of the federal act.

15 (4) The department may not adopt food standards or regulations under this section for:

16 (a) ____ homemade food or a homemade food product sold pursuant to Title 50, chapter 49, part 2; or

17 (b) ____ local meat or local meat product sold pursuant to [sections 1 through 3]."

18
19 **Section 9.** Section 50-50-102, MCA, is amended to read:

20 **"50-50-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
21 definitions apply:

22 (1) "Consumer" means a person who is a member of the public, takes possession of food, and
23 does not offer the food for resale.

24 (2) "Contract cook" means a person who specializes in a home food service and prepares food in
25 an individual's domestic residence only for members of that household and house guests.

26 (3) "Cottage food operation" means a person who provides, manufactures, or packages cottage
27 food products only in a kitchen in a registered area of a domestic residence and only for direct sale to a
28 consumer in this state.

(4) "Cottage food products" means foods that are not potentially hazardous and are processed or packaged in a cottage food operation, including jams, jellies, dried fruit, dry mixes, and baked goods. Other similar foods that are not potentially hazardous may be defined by the department by rule.

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

(6) "Direct sale" means a face-to-face purchase or exchange of the cottage food product between the manufacturer or packager of a cottage food product and a consumer or individual purchasing the cottage food product as a gift. The direct sale may not be by consignment or involve shipping or internet sales.

(7) "Domestic residence" means a single-family house or a unit in a multiunit residential structure, whether rented, leased, or owned by the person in charge of the cottage food operation.

(8) "Farmer's market" means a farm premises, a food stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority under 7-21-3301.

(9) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

(10) "Local board of health" means a county, city, city-county, or district board of health.

(11) "Local health officer" means a county, city, city-county, or district health officer, appointed by the local board of health, or the health officer's authorized representative.

(12) (a) "Meat market" means an operation and buildings or structures in connection with the meat market that are used to process, store, or display meat or meat products for retail sale to the public or for human consumption.

(b) The term does not include a processor's premises as defined in [section 2].

(13) (a) "Mobile food establishment" means a retail food establishment that serves or sells food from a motor vehicle, a nonmotorized cart, a boat, or other movable vehicle that periodically or continuously changes location and requires a servicing area to accommodate the unit for cleaning, inspection, and maintenance.

(b) The term does not include:

(i) a motor vehicle used solely to transport or deliver food by a motorized carrier regulated by the state or the federal government;

(ii) a cottage food operation transport vehicle; or

1 (iii) a concession stand designed to operate as a temporary food establishment.

2 (14) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under
3 26 U.S.C. 501.

4 (15) "Person" means an individual, a partnership, a corporation, an association, a cooperative
5 group, the state or a political subdivision of the state, or other entity.

6 (16) "Potentially hazardous food" means food that requires time and temperature control for safety
7 to limit toxin formation or the growth of pathogenic microorganisms.

8 (17) (a) "Raw agricultural commodity" means any food in its raw, unaltered state, including fruits,
9 vegetables, raw honey, and grains. A raw agricultural commodity may be in a container if putting the commodity
10 in a container does not alter the raw state.

11 (b) The term does not include an agricultural commodity that has been altered by being:

12 (i) cooked;

13 (ii) canned;

14 (iii) preserved, except for drying;

15 (iv) combined with other food products; or

16 (v) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

17 (18) "Registered area" means the portion of a domestic residence that has been registered as
18 provided in 50-50-117 and in which food ingredients intended for cottage food products are transported or
19 stored or the domestic residence kitchen where cottage food products are processed, packaged, or stored.

20 (19) "Regulatory authority" means the department, the local board of health, the local health officer,
21 or the local sanitarian.

22 (20) "Retail" means the provision of food directly to the consumer.

23 (21) (a) "Retail food establishment" means an operation, whether mobile or at a temporary or
24 stationary facility or location, that meets one or more of the conditions in subsections (21)(a)(i) and (21)(a)(ii)
25 and that may include a central processing facility that supplies a transportation vehicle or a vending location or
26 satellite feeding location. A retail food establishment:

27 (i) stores, processes, packages, serves, or vends food directly to the consumer or otherwise
28 provides food for human consumption at a venue that may include:

- 1 (A) a restaurant;
- 2 (B) a market;
- 3 (C) a satellite or catered feeding location;
- 4 (D) a catering operation if the catering operation provides food directly to a consumer or to a
- 5 conveyance used to transport people;
- 6 (E) a vending location;
- 7 (F) a conveyance used to transport people;
- 8 (G) an institution; or
- 9 (H) a food bank; and
- 10 (ii) relinquishes possession of food to a consumer directly or indirectly by using either a delivery
- 11 service, as is done for grocery or restaurant orders, or a common carrier that provides deliveries.
- 12 (b) The term is not dependent on whether consumption is on or off the premises or whether there
- 13 is a charge for food served to the public.
- 14 (c) The term does not include:
- 15 (i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;
- 16 (ii) a processor's premises as defined in [section 2], slaughterhouses, meat packing plants, or
- 17 meat depots;
- 18 (iii) growers or harvesters of raw agricultural commodities;
- 19 (iv) a cottage food operation;
- 20 (v) a person that sells or serves only commercially prepackaged foods that are not potentially
- 21 hazardous;
- 22 (vi) a food stand that offers raw agricultural commodities;
- 23 (vii) a wholesale food establishment, including those wholesale food establishments that are
- 24 located on the same premises as a retail food establishment;
- 25 (viii) a kitchen in a domestic residence used for preparing food to sell or serve at a function by a
- 26 nonprofit organization as provided in subsection (21)(c)(xiii);
- 27 (ix) custom meat and game animal processors that receive from an owner the remains of a carcass
- 28 and process those remains for delivery to the owner for the exclusive use in the owner's household by the

owner or members of the owner's household, including the owner's family pets, or of the owner's nonpaying guests or employees. For this exemption to apply, the carcass must be kept separate from other meat food products and parts that are to be prepared for sale.

(x) private, religious, fraternal, youth, patriotic, or civic organizations that serve or sell food to the public over no more than 4 days in a 12-month period;

(xi) a private organization that serves food only to its members and their guests;

(xii) a bed and breakfast, a hotel, a motel, a roominghouse, a guest ranch, an outfitting and guide facility, a boardinghouse, or a tourist home as defined in 50-51-102 that serves food only to registered guests and day visitors;

(xiii) a nonprofit organization that operates a temporary food establishment under a permit as provided in 50-50-120;

(xiv) persons who sell or serve at a farmer's market or a food stand whole shell eggs, hot coffee, hot tea, homemade food or a homemade food product, or local meat or local meat product pursuant to Title 50, chapter 49, or other food not meeting the definition of potentially hazardous, as authorized by the appropriate municipal or county authority;

(xv) a day-care center under 52-2-721(1)(a) or day-care providers who are not subject to licensure under 52-2-721(1)(a);

(xvi) a private domestic residence that receives catered or home-delivered food;

(xvii) a contract cook; or

(xviii) a provider of free samples to the public as a marketing activity if the provider is a licensed wholesale food establishment, a cottage food operation, or a seller at a farmer's market.

(22) "Temporary food establishment" means a retail food establishment that in a licensing year either:

(a) operates at a fixed location for no more than 21 days in conjunction with a single event or celebration; or

(b) uses a fixed menu and operates within a single county at a recurring event or celebration for no more than 45 days.

(23) (a) "Water hauler" means a person engaged in the business of transporting water for human

1 consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter
2 6.

3 (b) The term does not include a person engaged in the business of transporting water for human
4 consumption that is used for individual family households and family farms and ranches."
5

6 **Section 10.** Section 50-50-103, MCA, is amended to read:

7 **"50-50-103. Department authorized to adopt rules -- advisory council.** (1) Except as provided in
8 subsection (3), to protect public health, the department may adopt rules relating to:

9 (a) the operation of retail food establishments and cottage food operations. The rules may address
10 sanitation standards related to food, personnel, food equipment and utensils, and facilities and may address
11 other controls, construction and fixtures, and housekeeping.

12 (b) licensure of retail food establishments; and

13 (c) registration for cottage food operations, including the fees to be charged for registration. The
14 department shall specify in rule any fees for farmer's markets and cottage food operations that may be imposed
15 by a regulatory authority.

16 (2) The department may adopt rules regarding permitting fees, statewide standards, plans to be
17 provided by mobile food establishments as part of a mobile food establishment's licensing requirements, and an
18 appeals process at the state and local levels.

19 (3) The department and local boards of health may not adopt rules or ordinances, respectively,
20 that prohibit:

21 (a) the sale of cottage food products;

22 (b) the use of commercially processed wild game or fish meat in meals served by nonprofit retail
23 food establishments pursuant to 50-50-126; or

24 (c) the sale of homemade food or a homemade food product or local meat or local meat product
25 pursuant to Title 50, chapter 49.

26 (4) (a) The department shall establish a food safety task force or advisory council to assist in the
27 development of administrative rules or to review any proposed legislation related to the provisions of this
28 chapter.

(b) The task force or advisory council must be composed of equal numbers of representatives of the departments of public health and human services, agriculture, and livestock and of registered sanitarians from local regulatory authorities and no more than six members of the public. Each department head shall appoint two of the public members and confer with other department heads to provide geographic representation. Each public member must be an owner or employee of a licensed retail food establishment or a representative of the food industry.

(c) The department shall present administrative rules and any legislation to be proposed by the department to the task force or advisory council prior to its proposal or introduction. When the department learns of proposed legislation related to the provisions of this chapter that has not been proposed by the department, the department shall provide copies of that legislation for review by the task force or advisory council and shall provide to the legislature any comments of the task force or advisory council."

Section 11. Section 50-50-121, MCA, is amended to read:

"50-50-121. Requirements for farmer's markets. (1) (a) A person selling food that is not potentially hazardous, including food listed in subsection (2), at a farmer's market is not a retail food establishment.

(b) A person selling food that is not potentially hazardous or otherwise listed in subsection (2) if selling only at a farmer's market is not required to register as a cottage food operation.

(2) Foods that are not potentially hazardous or are otherwise eligible to be sold at a farmer's market include:

(a) whole shell eggs if the whole shell eggs are clean, free of cracks, and stored in clean cartons at a temperature established by the department by rule;

(b) hot coffee or hot tea if the person selling the hot coffee or hot tea does not provide or include fresh milk or cream;

(c) raw agricultural commodities;

(d) food identified by the department by rule as not being a potentially hazardous food; and

(e) homemade food or a homemade food product or local meat or local meat product pursuant to Title 50, chapter 49.

(3) A farmer's market authorized by a municipal or county authority shall keep registration records

1 of all persons and organizations that serve or sell food exempt from licensure at the market, including food that
2 does not meet the definition of potentially hazardous food.

3 (4) The registration records must include the name, address, and telephone number of the seller or
4 server as well as the types of products sold or served and the date on which the products were sold or served.

5 (5) A farmer's market under this section shall make registration records available upon request to
6 the local health authority.

7 (6) Except for homemade food or a homemade food product or local meat or local meat product
8 pursuant to Title 50, chapter 49, food sold in a farmer's market must, if sold in a container, have a label similar
9 to a label required of a cottage food product under 50-50-116."

10
11 **Section 12.** Section 50-50-301, MCA, is amended to read:

12 **"50-50-301. Health officers and sanitarians to make investigations and inspections -- training**
13 **requirements.** (1) State and local health officers, sanitarians-in-training, and registered sanitarians shall make
14 investigations and inspections of retail food establishments once a year and make reports to the department as
15 required under rules adopted by the department. An inspection may be conducted more often than once a year.

16 (2) A person conducting an inspection must be certified and have completed a food safety training
17 program, such as the program administered by the national restaurant association educational foundation or its
18 equivalent.

19 (3) (a) A cottage food operation is not subject to inspection under this section unless the state or
20 local health officer is investigating a complaint based on an illness or an outbreak suspected to be directly
21 related to cottage food products.

22 (b) A cottage food operation may request an inspection and pay the appropriate costs for that
23 inspection on a voluntary basis.

24 (4) A producer as defined in 50-49-202 selling homemade food or a homemade food product
25 pursuant to Title 50, chapter 49, part 2, or a processor as defined in [section 2] selling local meat or local meat
26 product pursuant to [sections 1 through 3], is-are not subject to inspection under this section unless the state or
27 local health officer is investigating a complaint based on an illness or an outbreak suspected to be directly
28 related to that homemade food or homemade food product or that local meat or local meat product."

1

2 **Section 13.** Section 50-57-102, MCA, is amended to read:

3 **"50-57-102. Definitions.** Unless the context clearly requires otherwise, in this chapter the following
4 definitions apply:

5 (1) "Consumer" means a person who:

6 (a) is a member of the public;

7 (b) takes possession of food;

8 (c) is not functioning in the capacity of an operator of an establishment; and

9 (d) does not offer the food for resale.

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

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

14 (a) is advertised only as a food supplement; and

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

16 (i) a vitamin;

17 (ii) a mineral;

18 (iii) an herb or other botanical substance;

19 (iv) an amino acid; or

20 (v) a dietary substance used to supplement the diet by increasing the total dietary intake or a

21 concentrate, metabolite, constituent, extract, or a combination of any ingredients described in subsections

22 (3)(b)(i) through (3)(b)(iv).

23 (4) "Establishment" means a wholesale food manufacturing establishment, wholesale food salvage
24 establishment, wholesale food warehouse, wholesale ice manufacturer, or wholesale water bottler.

25 (5) (a) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for
26 sale for human consumption. The term includes dietary supplements.

27 (b) The term does not include nonprescription drugs.

28 (6) "Local board of health" means a county, city, city-county, or district board of health.

(7) "Local health officer" means a county, city, city-county, or district health officer appointed by the local board of health or the health officer's authorized representative.

(8) "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

(9) "Retail" means the provision of food directly to the consumer.

(10) "Retail food establishment" has the meaning provided in 50-50-102.

(11) (a) "Wholesale" means the sale or provision of food to a retail food establishment or to another person engaged in retail sales who sells or provides the food directly to the consumer.

(b) The term does not include the sale or provision of food at retail.

(12) (a) "Wholesale food manufacturing establishment" means a facility and the facility's buildings or structures used to manufacture or prepare food for human consumption at wholesale.

(b) The term does not include:

(i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;

(ii) a processor's premises as defined in [section 2], slaughterhouses, meat packing plants, or meat depots; or

(iii) producers or harvesters of raw and unprocessed farm products.

(13) "Wholesale food salvage establishment" means an entity that is engaged in reconditioning or by other means salvaging distressed food or that sells, buys, or distributes for human consumption any salvaged food. The term includes a salvage broker, a salvage operator, and a salvage warehouse.

(14) (a) "Wholesale food warehouse" means a facility used to store food or cosmetics for distribution to retailers.

(b) The term includes a frozen food plant that is used to freeze, process, or store food, including any facility used in conjunction with the frozen food plant.

(c) The term does not include a wine, beer, or soft drink warehouse that is separate from facilities where brewing or drink manufacturing occurs.

(15) (a) "Wholesale ice manufacturer" means an entity that produces ice for human consumption that is sold at wholesale in packaged form or in bulk form for food, drink, or culinary purposes.

(b) The term does not include:

(i) persons, hotels, restaurants, inns, caterers, food service contractors, or theaters that manufacture or furnish ice solely for their customers in a manner that is incidental to the production, sale, or dispensing of other goods and services; or

(ii) a retail food establishment that manufactures ice in packaged form for onsite retail sales to the consumer.

(16) (a) "Wholesale water bottler" means an entity that is engaged in the production, packaging, manufacturing, or processing of drinking water, culinary bottled water, or water otherwise processed and packaged for human consumption that is sold at wholesale.

(b) The term does not include a facility that produces, packages, manufactures, or processes drinking water, culinary bottled water, or water otherwise processed and packaged for human consumption onsite for retail sale."

Section 14. Section 81-2-102, MCA, is amended to read:

"81-2-102. Powers of department. (1) The department may:

(a) supervise the sanitary conditions of livestock in this state, under the provisions of the constitution and statutes of this state and the rules adopted by the department. The department may quarantine a lot, yard, land, building, room, premises, enclosure, or other place or section in this state that is or may be used or occupied by livestock and that in the judgment of the department is infected or contaminated with an infectious, contagious, communicable, or dangerous disease or disease-carrying medium by which the disease may be communicated. The department may quarantine livestock in this state when the livestock is affected with or has been exposed to disease or disease-carrying medium. The department may prescribe treatments and enforce sanitary rules that are necessary and proper to circumscribe, extirpate, control, or prevent the disease.

(b) foster, promote, and protect the livestock industry in this state by the investigation of diseases and other subjects related to ways and means of prevention, extirpation, and control of diseases or to the care of livestock and its products and to this end may establish and maintain a laboratory, may make or cause to be made biologic products, curatives, and preventative agents, and may perform any other acts and things as may be necessary or proper in the fostering, promotion, or protection of the livestock industry in this state;

1 (c) impose and collect fees that the department considers appropriate for the tests and services
2 performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents
3 made or caused to be made by the department. In fixing these fees, the department shall take into
4 consideration the costs, both direct and indirect, of the tests, services, products, curatives, and agents. All fees
5 must be deposited in the enterprise fund account established in 81-2-116 for the use of the animal laboratory
6 functions of the department.

7 (d) subject to subsection (2), adopt rules and orders that it considers necessary or proper to
8 prevent the introduction or spreading of infectious, contagious, communicable, or dangerous diseases affecting
9 livestock and alternative livestock in this state;

10 (e) (i) adopt rules and orders that it considers necessary or proper for the inspection, testing, and
11 quarantine of all livestock and alternative livestock imported into this state; and

12 (ii) adopt rules and orders that it considers necessary or proper governing inspections and tests of
13 livestock and alternative livestock intended for importation into this state to prevent the introduction or
14 spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock and alternative
15 livestock;

16 (f) adopt rules and orders that it considers necessary or proper for the supervision, inspection, and
17 control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and meat food
18 products, dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other places and
19 premises where meat or meat foods, milk or its products, or any byproducts thereof intended for sale or
20 consumption as food are produced, kept, handled, or stored. An authorized representative of the department
21 may take samples of a product so produced, kept, handled, or stored for analysis or testing by the department.
22 The records of the samples and their analysis and test, when identified as to the sample by the oath of the
23 officer taking it and verified as to the analysis or test by the oath of the chemist or bacteriologist making it, are
24 prima facie evidence of the facts set forth in them when offered in evidence in a prosecution or action at law or
25 in equity for violation of 81-9-201, 81-20-101, 81-21-102, 81-21-103, part 1, 2, or 3 of this chapter, or a rule or
26 order of the board adopted thereunder. These standards, insofar as they relate to dairies or milk and its
27 byproducts, may not include standards of weight or measurement. A producer as defined in 50-49-202 selling
28 homemade food or a homemade food product pursuant to Title 50, chapter 49, part 2, or a processor as

1 defined in [section 2] selling local meat or local meat product pursuant to [section 1 through 3] is not subject to
2 the rules and orders adopted under this subsection (1)(f) as those relate to the licensure, permitting,
3 certification, packaging, labeling, or inspection that pertains to the preparation, serving, use, consumption,
4 delivery, or storage of homemade food or a homemade food product or local meat or local meat product.

5 (g) adopt rules and orders that seem necessary or proper for the supervision and control of
6 manufactured and refined foods for livestock and the manufacture, importation, sale, and method of using a
7 biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as practicable, the
8 standards approved by the United States department of agriculture must be adopted.

9 (h) slaughter or cause to be slaughtered any livestock in this state known to be affected with or
10 that has been exposed to an infectious, contagious, communicable, or dangerous disease, when the slaughter
11 is necessary for the protection of other livestock, and destroy or cause to be destroyed all barns, stables,
12 sheds, outbuildings, fixtures, furniture, or personal property infected with any infectious, contagious,
13 communicable, or dangerous disease when they cannot be thoroughly cleaned and disinfected and the
14 destruction is necessary to prevent the spreading of the disease;

15 (i) indemnify the owner of any property destroyed by order of the department or pursuant to any
16 rules adopted by the department under 81-20-101, 81-21-102, 81-21-103, or part 1, 2, or 3 of this chapter;

17 (j) require persons, firms, and corporations engaged in the production or handling of meat, meat
18 food products, dairy products, or any byproducts thereof to furnish statistics of the quantity and cost of the food
19 and food products produced or handled and the name and address of persons supplying them any of the
20 products.

21 (2) (a) As used in subsection (1)(d), "order" means a command, direction, or instruction issued by
22 the department, board, or board's administrator in circumstances that clearly constitute an existing imminent
23 peril to the public health, safety, or welfare or to animal health or welfare.

24 (b) An order under subsection (1)(d) may last no more than 5 years and may be altered or
25 rescinded as necessary to address the circumstances set out in subsection (1)(d). An order may not be used to
26 create a permanent program.

27 (c) As used in subsection (2)(b), "program" means a legislatively or administratively created
28 function, project, or duty of an agency.

1 (3) When in the exercise of its powers or the discharge of its duties it becomes necessary for
2 employees of the department to investigate facts and conditions, they may administer oaths, take affidavits, and
3 compel the attendance and testimony of witnesses."
4

5 **Section 15.** Section 81-2-105, MCA, is amended to read:

6 **"81-2-105. Authority of municipal corporations.** (1) Nothing in this title prevents the governing
7 authority of a municipal corporation from enacting or enforcing ordinances for the inspection of
8 slaughterhouses, meat depots, meat markets, meat food products, creameries, butter or cheese factories,
9 dairies, or dairy products located, sold, or offered for sale in the limits of the municipal corporation. An
10 ordinance may not be enforced in conflict with the powers of this title delegated to the department and its
11 officers or agents.

12 (2) The governing activity authority of a municipal corporation may not enact or enforce ordinances
13 pursuant to this section for:

14 (a) _____producers as defined in 50-49-202 selling homemade food or a homemade food product
15 pursuant to Title 50, chapter 49, part 2; or

16 (b) _____processors as defined in [section 2] selling local meat or local meat product pursuant to
17 [sections 1 through 3]."

18
19 **Section 16.** Section 81-9-201, MCA, is amended to read:

20 **"81-9-201. Meat establishment license -- fees and renewals.** (1) Except as provided in 50-49-303
21 50-49-103 and [section 3], it is unlawful for a person, firm, or corporation to engage in the business of
22 slaughtering livestock or poultry, including the operation of a mobile slaughter facility as defined in 81-9-217, or
23 processing, storing, or wholesaling livestock or poultry products without having a license issued by the
24 department. The department shall establish an annual fee for a license issued under this section, to be paid into
25 the state special revenue fund for the use of the department.

26 (2) All licenses expire each year on the anniversary date established by rule by the board of review
27 established in 30-16-302 and must be renewed by the department on request of the licensee. However, when
28 the department finds that the establishment for which the license is issued is not conducted in accordance with

1 the rules and orders of the board made under 81-2-102, the department shall revoke the license and may not
2 renew it until the establishment is in a sanitary condition in accordance with department rules.

3 (3) Investor-owned equine slaughter or processing facilities must be licensed pursuant to this
4 section.

5 (4) A person, firm, or corporation violating this section or any rule or order promulgated by
6 authority of 81-2-102 is guilty of a misdemeanor and upon conviction shall be fined not more than \$500."

7

8 **Section 17.** Section 81-9-217, MCA, is amended to read:

9 **"81-9-217. Definitions.** As used in 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236,
10 unless otherwise provided, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (5) "Livestock" means cattle, buffalo, sheep, swine, goats, horses, and mules or other equines,
20 whether alive or dead.

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

23 (7) "Meat" means the edible flesh of livestock or poultry and includes livestock and poultry
24 products. This term does not include cell-cultured edible products as defined in this section.

25 (8) "Misbranded" means the term applied to meat:

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

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

28 (c) if it is not entirely derived from the edible flesh of livestock or poultry or livestock and poultry

1 products. A cell-cultured edible product derived from meat muscle cells, fat cells, connective tissue, blood, or
2 other meat components is not considered to be misbranded if it is labeled in accordance with 50-31-103 to
3 indicate it is derived from those cells, tissues, blood, or components.

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

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

7 (f) if it does not bear a label showing:

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

9 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or numerical
10 count. The board may adopt rules exempting small meat packages, meat not in containers, and other
11 reasonable variations.

12 (g) if any word, statement, or other information required by 81-9-216 through 81-9-220 and 81-9-
13 226 through 81-9-236 to appear on the label is not prominently placed on the label, as compared with other
14 words, statements, designs, or devices in the labeling, and is not stated in terms that render it likely to be read
15 and understood by the ordinary individual under customary conditions of purchase and use;

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

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

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

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

25 (j) if it is not subject to the provisions of subsection (8)(h), unless its label bears:

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

27 (ii) in case it is fabricated from two or more ingredients, the common or usual name of each
28 ingredient, except that spices, flavorings, and colorings may, when authorized by the board, be designated as

1 spices, flavorings, and colorings without naming each. To the extent that compliance with the requirements of
2 this subsection (8)(j)(ii) is impracticable or results in deception or unfair competition, exemptions must be
3 established by rules promulgated by the board.

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

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

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

15 (9) (a) "Mobile slaughter facility" means a mobile unit that is operated by a person licensed by the
16 board to slaughter livestock or poultry, that is capable of providing onsite slaughter services for the owner of the
17 livestock or poultry, and at which inspection of the slaughter of livestock or poultry or the preparation of meat
18 food products is regulated under 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236.

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

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

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

25 (12) "Poultry" means any domesticated bird, whether alive or dead.

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

28

Section 18. Section 81-9-218, MCA, is amended to read:

"81-9-218. Exemptions. (1) The following persons are exempt from 81-9-201, 81-9-216 through 81-9-220, and 81-9-226 through 81-9-236:

(a) a person who slaughters livestock or poultry or prepares or processes livestock or poultry products for the person's own personal or household use;

(b) a person who transports dead, dying, or diseased animals or poultry for the purpose of treatment, burial, or disposal in a manner that would prevent the carcasses from being used as human food; and

(c) a producer as defined in 50-49-202 who sells homemade food or slaughters fewer than 1,000 poultry birds a year pursuant to 50-49-303 except that the producer is subject to the requirements of 9 CFR 381.10(c) and the recordkeeping requirements of 9 CFR 381.175; and

(d) a processor as defined in [section 2] who slaughters livestock that is raised by the processor and is slaughtered on the processor's premises and who sells local meat or local meat product pursuant to [sections 1 through 3].

(2) (a) The following persons are exempt from 81-9-216, 81-9-217, 81-9-220, and 81-9-226 through 81-9-236:

(i) A person engaged in the custom slaughtering of livestock as defined in 81-9-217 or poultry delivered by the owner for custom slaughter or a person engaged in the preparation of the carcasses and parts and meat food products of the livestock or poultry when slaughtered or prepared for exclusive use in the owner's household by the owner or members of the owner's household or the owner's nonpaying guests or employees. The carcasses, parts, or meat food products or containers of the articles under this subsection (2)(a)(i) must be plainly marked "Not for Sale" immediately after being slaughtered or prepared and remain plainly marked until delivered to the owner. ~~is exempt from 81-9-216, 81-9-217, 81-9-220, and 81-9-226 through 81-9-236 if the carcasses, parts, or meat food products or containers of the articles are:~~

~~(a) — kept separate from carcasses, parts, or meat food products prepared for sale;~~

~~(b) — plainly marked "Not for Sale" immediately after being slaughtered or prepared and remain plainly marked until delivered to the owner; and~~

(ii) a person engaged in the custom slaughtering of livestock as defined in [section 2] delivered by

1 a processor for slaughter and who is engaged in the preparation of local meat or local meat product pursuant to
2 [sections 1 through 3].

3 (e)(b) The carcasses, parts, or meat products under this subsection (2) must:

4 (i) be kept separate from carcasses, parts, or meat food products prepared for sale; and

5 (ii) be prepared and packaged in a sanitary manner and in a sanitary facility."

6

7 **Section 19.** Section 81-9-219, MCA, is amended to read:

8 **"81-9-219. Application.** Except as provided in [sections 1 through 3], ~~The~~ the provisions of 81-9-216

9 through 81-9-220 and 81-9-226 through 81-9-236 apply to persons, establishments, animals, and articles

10 regulated under the Federal Meat Inspection Act, 21 U.S.C. 601 through 695, the federal Poultry Products

11 Inspection Act, 21 U.S.C. 451 through 470, as those acts read on March 27, 2013, or the federal Humane

12 Methods of Slaughter Act of 1978, 7 U.S.C. 1901, 1902, 1904, 1906, and 1907, as that act read on March 27,

13 2007, only to the extent provided for in the federal acts."

14

15 **Section 20.** Section 81-9-220, MCA, is amended to read:

16 **"81-9-220. Rules.** (1) (a) Except as provided in subsection (2), ~~The~~ the board, upon the

17 recommendation of the chief, shall adopt rules consistent with the requirements of the rules of the U.S.

18 department of agriculture governing meat inspection. The rules must:

19 (1)(a) require antemortem and postmortem inspections, quarantines, segregation, and reinspections

20 with respect to the slaughter of livestock and poultry and the preparation of livestock and poultry products at all

21 official establishments;

22 (2)(b) require the identification of livestock and poultry and the marking and labeling of livestock or

23 poultry products as "Montana Inspected and Passed" if they are found upon inspection not to be adulterated;

24 (3)(c) require the destruction for food purposes of all livestock, poultry, livestock products, and poultry

25 products that have been found to be adulterated;

26 (4)(d) set standards for ingredients of livestock products, meat, and poultry products;

27 (5)(e) set standards for labeling, marking, or branding of meat, livestock products, and poultry

28 products;

1 ~~(6)~~(f) set standards for the weights or measures of meats, livestock products, and poultry products
2 not inconsistent with standards established under Title 30, chapter 12;
3 ~~(7)~~(g) set standards for the filling of containers for meat, livestock products, and poultry products;
4 ~~(8)~~(h) regulate the false or fraudulent advertising of meat, livestock products, and poultry products;
5 ~~(9)~~(i) provide for periodic investigations of the sanitary conditions of each official establishment and
6 withdraw or otherwise refuse to license and inspect those establishments where the sanitary conditions are
7 such as to render adulterated any meat products prepared or handled in that establishment;
8 ~~(10)~~(j) prescribe sanitation requirements for all official establishments;
9 ~~(11)~~(k) require all persons subject to 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 to
10 maintain full and complete records of all transactions involving meat, livestock products, or poultry products and
11 to make the records available on request to the chief or the chief's inspectors at any reasonable time;
12 ~~(12)~~(l) prescribe additional standards, methods, and procedures that are necessary to effect the
13 purposes of 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236; and
14 ~~(13)~~(m) provide for the licensing and inspection of mobile slaughter facilities to ensure that the
15 requirements of this part are met with respect to all operations conducted at mobile slaughter facilities.
16 (2) The board may not adopt rules governing meat inspection for a processor's premises, local
17 meat, or local meat product as defined in [section 2]."
18

19 **Section 21.** Section 81-9-234, MCA, is amended to read:

20 **"81-9-234. Violations -- penalties.** (1) Except as provided in 81-9-216 through 81-9-220 and 81-9-
21 226 through 81-9-236 and [sections 1 through 3], no person may:

22 (a) slaughter livestock or poultry or prepare livestock products or poultry products for human
23 consumption;

24 (b) sell or transport adulterated, misbranded, condemned, or uninspected meats, livestock
25 products, or poultry products;

26 (c) falsely represent that an article has been inspected and passed or is exempted under 81-9-216
27 through 81-9-220 and 81-9-226 through 81-9-236 or knowingly make a false statement in any certificate
28 provided for by rules prescribed by the board;

(d) sell or transport slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed;

(e) fail to keep any records required by 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236;

(f) forge an official stamp, mark, or certificate;

(g) use, alter, deface, detach, or destroy an official stamp, mark, or certificate without authorization;

(h) fail to use or fail to detach, deface, or destroy an official stamp, mark, or certificate contrary to rules prescribed by the board;

(i) knowingly possess a counterfeit certificate, stamp, or label or the carcass or parts of the carcass of an animal bearing a counterfeit or improperly altered official mark;

(j) sell or transport an equine carcass or parts thereof unless they are conspicuously marked or otherwise identified to show the kind of animal from which they were derived;

(k) buy, sell, or transport livestock products or poultry products not intended for human food unless they are naturally inedible by humans or are denatured or identified as required by rules prescribed by the board;

(l) engage in the business of buying, selling, or transporting dead, dying, disabled, or diseased animals or parts of the carcasses of animals that died otherwise than by slaughter, or buy, sell, or transport dead, dying, disabled, or diseased livestock or poultry or the products of such livestock or poultry that died otherwise than by slaughter unless in accordance with rules adopted under 81-9-302 to assure that such livestock or poultry or the unwholesome parts or products thereof will be prevented from being used for human food purposes.

(2) A person who violates 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 or rules adopted under 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 for which no other criminal penalty is provided is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than 1 year or by a fine of not more than \$1,000, or both. If the violation involves intent to defraud or any distribution or attempted distribution of an article that is adulterated, such person is guilty of a felony and upon conviction is punishable by imprisonment for not more than 3 years or by a fine of not more than \$10,000, or both."

1

2 NEW SECTION. **Section 22. Codification instruction.** [Sections 1 through 3] are intended to be
3 codified as a new part of Title 50, chapter 49, and the provisions of Title 50, chapter 49, apply to [sections 1
4 through 3].

5

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

9

10 NEW SECTION. **Section 24. Contingent effective date.** [This act] is effective on the date that the
11 governor certifies to the code commissioner that federal law allows the sale of meat products from cattle,
12 sheep, swine, or goats raised by the processor that were slaughtered on the premises of the processor or at a
13 custom slaughter facility. Legalization under federal law must be either the passage of a federal law to allow
14 direct-to-consumer sales of uninspected meat products or the issuance of a final decision by a federal court
15 with jurisdiction over this state that declares that the federal prohibition on direct-to-consumer sales is
16 unconstitutional or otherwise invalid. The governor shall certify within 90 days of the occurrence of the
17 contingency.

18

- END -