

HOUSE BILL NO. 272

INTRODUCED BY G. HERTZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING LABELING REQUIREMENTS FOR PASTEURIZED  
5 MILK PLACED FOR SALE; PROVIDING REQUIREMENTS FOR A LAST SALE DATE AND A "BEST BY" DATE;  
6 PROHIBITING CERTAIN SALES; PROVIDING EXCEPTIONS; PROVIDING DEPARTMENT AUTHORITY;  
7 REQUIRING THE DEPARTMENT OF LIVESTOCK TO AMEND ARM 32.8.101 TO ELIMINATE THE DEFINITION  
8 OF A "SELL BY" DATE; REPEALING ADMINISTRATIVE RULES RELATED TO MILK FRESHNESS DATING  
9 AND LABELING; PROHIBITING NEW RULEMAKING; AMENDING SECTION 81-2-102, MCA; REPEALING ARM  
10 32.8.202, 32.8.203, 32.8.204, 32.8.205, AND 32.8.206; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
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12 WHEREAS, Department of Livestock rules related to milk freshness dating, labeling, and seizure are  
13 made redundant by passage of this bill; and

14 WHEREAS, ARM 32.8.101 contradicts the provisions of this bill because the definition of a "sell-by" date  
15 in administrative rule does not conform to the use of the term "last sale date", which would be reflected in law;  
16 and

17 WHEREAS, ARM 32.8.202 is unnecessary because the prohibition on selling grade A milk 12 days after  
18 pasteurization would be reflected in law; and

19 WHEREAS, ARM 32.8.203 is unnecessary because the requirement for marking and labeling a container  
20 of grade A pasteurized milk would be reflected in law; and

21 WHEREAS, ARM 32.8.204 is unnecessary because the exemption from labeling for a dairy of the  
22 Montana correctional enterprises prison industries training program would be reflected in law; and

23 WHEREAS, ARM 32.8.205 is unnecessary because the requirements for the manner, positioning, and  
24 size of labels would be reflected in law; and

25 WHEREAS, ARM 32.8.206 is unnecessary because the Department of Livestock's power to seize and  
26 destroy milk would be reflected in law.  
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28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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30 NEW SECTION. **Section 1. Standards and labeling for milk placed for sale -- last sale date -- "best**

- 1 **by" date -- seizure -- exemptions -- rulemaking prohibited.** (1) The processor of a unit of grade A milk shall  
2 establish:
- 3 (a) a last sale date indicating the 12th consecutive day following pasteurization of the unit of milk; and  
4 (b) a "best by" date indicating the number of days after pasteurization that the unit of milk should be  
5 fresh, healthful, and safe when purchased by a consumer. This date may also be referred to as a "use by" date.
- 6 (2) (a) Each container into which grade A pasteurized milk is placed for sale for public consumption must  
7 be marked with the last sale date and the "best by" date by the packager of the milk.
- 8 (b) A processor with operations in Montana and other states shall mark a consistent "best by" date on  
9 containers of milk sold in this state, whether or not the milk was processed in Montana or out of state.
- 10 (3) (a) The last sale date and "best by" date required by subsection (2) must be displayed in Arabic  
11 numerals or standard abbreviations for day and month.
- 12 (b) Labels required by this section must be of a color clearly contrasting with the area immediately  
13 surrounding the label. The labels may be put on by printing, stamping, burning, or a combination of any of those  
14 methods or by some other method specifically approved in writing by the department.
- 15 (c) Labels placed on cartons or similar containers must be located on the top sealing fin. Labels on  
16 molded plastic jugs may be placed anywhere on the upper half of the container or on the printed product label  
17 except the lid.
- 18 (d) Labels for containers must be at least 1/8 inch in height.
- 19 (e) All characters in labels must be at least 1/8 inch in height.
- 20 (f) The last sale date and "best by" date must be located next to each other on the label.
- 21 (4) (a) A person may not sell or offer for public consumption grade A milk if more than 12 days have  
22 passed following pasteurization of the milk.
- 23 (b) A person may not put grade A pasteurized milk into any container marked for sale with a last sale  
24 date more than 12 days after pasteurization of the milk.
- 25 (c) A person who offers pasteurized milk for sale to the public shall remove the milk at or before the last  
26 sale date.
- 27 (5) The following are exempt from the labeling rule in subsection (2):
- 28 (a) a dairy of the Montana correctional enterprises prison industries training program;  
29 (b) a processor not selling or distributing milk to the public; or  
30 (c) a processor processing milk for sale out of state.

1 (6) Milk offered for sale contrary to the provisions of this section may be seized and destroyed by agents  
2 of the department.

3 (7) The department may not adopt rules related to implementation of this section.  
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5 **NEW SECTION. Section 2. Department to amend rule.** The department of livestock shall amend ARM  
6 32.8.101 to eliminate the definition of a "sell by" date.  
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8 **Section 3.** Section 81-2-102, MCA, is amended to read:

9 **"81-2-102. Powers of department.** (1) The department may:

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

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

23 (c) impose and collect fees that the department considers appropriate for the tests and services  
24 performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents made  
25 or caused to be made by the department. In fixing these fees, the department shall take into consideration the  
26 costs, both direct and indirect, of the tests, services, products, curatives, and agents. All fees must be deposited  
27 in the state special revenue fund for the use of the animal health functions of the department.

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

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

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

6 (f) except as provided in [section 1], adopt rules and orders that it considers necessary or proper for the  
7 supervision, inspection, and control of the standards and sanitary conditions of slaughterhouses, meat depots,  
8 meat and meat food products, dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other  
9 places and premises where meat or meat foods, milk or its products, or any byproducts thereof intended for sale  
10 or consumption as food are produced, kept, handled, or stored. An authorized representative of the department  
11 may take samples of a product so produced, kept, handled, or stored for analysis or testing by the department.  
12 The records of the samples and their analysis and test, when identified as to the sample by the oath of the officer  
13 taking it and verified as to the analysis or test by the oath of the chemist or bacteriologist making it, are prima  
14 facie evidence of the facts set forth in them when offered in evidence in a prosecution or action at law or in equity  
15 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 order of the  
16 board adopted thereunder. These standards, insofar as they relate to dairies or milk and its byproducts, may not  
17 include standards of weight or measurement.

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

22 (h) install an adequate system of meat inspection in accordance with 81-9-216 through 81-9-220 and  
23 81-9-226 through 81-9-236 that must provide ways and means for shipping home-grown and home-killed meats  
24 into any city in this state. As far as practicable, the rules must conform with the meat-inspection requirements of  
25 the United States department of agriculture.

26 (i) slaughter or cause to be slaughtered any livestock in this state known to be affected with or that has  
27 been exposed to an infectious, contagious, communicable, or dangerous disease, when the slaughter is  
28 necessary for the protection of other livestock, and destroy or cause to be destroyed all barns, stables, sheds,  
29 outbuildings, fixtures, furniture, or personal property infected with any infectious, contagious, communicable, or  
30 dangerous disease when they cannot be thoroughly cleaned and disinfected and the destruction is necessary

1 to prevent the spreading of the disease;

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

4 (k) require persons, firms, and corporations engaged in the production or handling of meat, meat food  
5 products, dairy products, or any byproducts thereof to furnish statistics of the quantity and cost of the food and  
6 food products produced or handled and the name and address of persons supplying them any of the products.

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

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

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

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

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19 **NEW SECTION. Section 4. Repealer.** ARM 32.8.202, 32.8.203, 32.8.204, 32.8.205, and 32.8.206 are  
20 repealed.

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22 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an  
23 integral part of Title 81, and the provisions of Title 81 apply to [section 1].

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25 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

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