

HOUSE BILL 224

Introduced by Peck, et al.

1/17	Introduced
1/17	Referred to Business & Economic Development
1/24	Hearing
1/24	Committee Report--Bill Passed as Amended
1/28	2nd Reading Do Pass Motion Failed

1 *HOUSE* BILL NO. *224*
 2 INTRODUCED BY *Rep. Frost* *B. B. Bunt*
 3 *Madison* *HARP* *Hager* *Richard E. Manning*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF
 5 UNLAWFUL APPROPRIATION OF DAIRY CASES; PRESCRIBING
 6 PENALTIES; PROVIDING FOR REGISTRATION OF NAMES OR MARKS
 7 IDENTIFYING DAIRY CASES; ALLOCATING FINE PROCEEDS; AND
 8 AMENDING SECTION 3-10-601, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **Section 1.** Definitions. As used in
12 [section 2], the following definitions apply:

13 (1) "Dairy case" means a wire or plastic container that
14 holds 16 quarts or more of dairy products and that is used
15 by distributors, retailers, or their agents as a means to
16 transport, store, or carry milk or other dairy products.

17 (2) "Registered name or mark" means any permanently
18 affixed or permanently stamped mark that has been registered
19 with the secretary of state pursuant to [section 3] and that
20 is used for the purpose of identifying the owner of a dairy
21 case.

22 NEW SECTION. **Section 2.** Unlawful appropriation of
23 dairy case. (1) A person commits the offense of unlawful
24 appropriation of a dairy case if, without the consent of the
25 owner or his agent, he purposely or knowingly takes

1 possession of a dairy case with the intent to temporarily or
2 permanently deprive the owner of the dairy case and if:

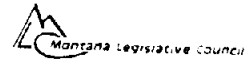
3 (a) the dairy case is marked on at least two sides with
4 a registered name or mark; and

5 (b) a notice to the public, warning that use by any
6 person other than the registered owner is punishable by law,
7 is visibly displayed on the dairy case.

8 (2) A person found to be in possession of a dairy case
9 bearing a registered name or mark and a notice is presumed
10 to be illegally in possession of the dairy case. Possession
11 places a burden on the person having possession to remove
12 the effect of the possession as a circumstance to be
13 considered with all other evidence presented at trial.

14 (3) A person convicted of the offense of unlawful
15 appropriation of a dairy case shall be fined \$25 for each
16 dairy case in his possession, and a jail sentence may not be
17 imposed. Bond for this offense is \$25 for each dairy case in
18 the person's possession.

19 NEW SECTION. **Section 3.** Registration of dairy cases. A
20 person, firm, corporation, or association owning dairy cases
21 as defined in [section 1] may register with the secretary of
22 state a description of the name or mark affixed or stamped
23 on the dairy cases for identification purposes. If the
24 secretary of state determines that the name or mark does not
25 duplicate or so closely resemble any other name or mark



1 registered under this section as to be misleading,
2 deceiving, or confusing, the secretary of state shall
3 register and record the name or mark.

4 **Section 4.** Section 3-10-601, MCA, is amended to read:

5 "3-10-601. Collection and disposition of fines,
6 penalties, forfeitures, and fees. (1) Each justice of the
7 peace shall collect the fees prescribed by law for justices'
8 courts and shall pay them into the county treasury of the
9 county wherein he holds office, on or before the 10th day of
10 each month, to be credited to the general fund of the
11 county.

12 (2) All fines, penalties, and forfeitures, except for
13 those provided for in subsection (5), that this code
14 requires to be imposed, collected, or paid in a justice's
15 court must, for each calendar month, be paid by the
16 justice's court on or before the 5th day of the following
17 month to the treasurer of the county in which the justice's
18 court is situated.

19 (3) The county treasurer shall, in the manner provided
20 in 15-1-504, distribute money received under subsection (2)
21 as follows:

- 22 (a) 50% to the state treasurer; and
23 (b) 50% to the county general fund.
24 (4) The state treasurer shall distribute money received
25 under subsection (3) as follows:

- 1 (a) 23% to the state general fund;
2 (b) 10% to the fish and game account in the state
3 special revenue fund;
4 (c) 12.5% to the state highway account in the state
5 special revenue fund;
6 (d) 36% to the traffic education account in the state
7 special revenue fund;
8 (e) 0.6% to the department of livestock account in the
9 state special revenue fund;
10 (f) 16.9% to the crime victims compensation account in
11 the state special revenue fund; and
12 (g) 1% to the department of family services special
13 revenue account for the battered spouses and domestic
14 violence grant program.

15 (5) Fines collected pursuant to [section 2] must be
16 distributed by the county treasurer as follows:

- 17 (a) 50% as provided for in subsection (3); and
18 (b) 50% to the entity arresting an individual convicted
19 of a violation of [section 2]."

20 **NEW SECTION. Section 5. Codification instruction.** (1)
21 [Sections 1 and 2] are intended to be codified as an
22 integral part of Title 45, chapter 6, and the provisions of
23 Title 45, chapter 6, apply to [sections 1 and 2].

24 (2) [Section 3] is intended to be codified as an
25 integral part of Title 30, chapter 13, and the provisions of

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1 Title 30, chapter 13, apply to [section 3].

-End-

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 224

INTRODUCED BY PECK, FORRESTER, SPRING, BARNHART, MADISON, LYNCH, HARP, HAGER, MANNING

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF UNLAWFUL APPROPRIATION OF DAIRY CASES; PRESCRIBING PENALTIES; PROVIDING FOR REGISTRATION OF NAMES OR MARKS IDENTIFYING DAIRY CASES; ALLOCATING FINE PROCEEDS; AND AMENDING SECTION 3-10-601, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definitions. As used in

[section 2], the following definitions apply:

(1) "Dairy case" means a wire or plastic container that holds 16 quarts or more of dairy products and that is used by distributors, retailers, or their agents as a means to transport, store, or carry milk or other dairy products.

(2) "Registered name or mark" means any permanently affixed or permanently stamped mark that has been registered with the secretary of state pursuant to [section 3] and that is used for the purpose of identifying the owner of a dairy case.

NEW SECTION. Section 2. Unlawful appropriation of

dairy case. (1) A person commits the offense of unlawful

appropriation of a dairy case if, without the consent of the owner or his agent, he purposely or knowingly takes possession of a dairy case with the intent to temporarily or permanently deprive the owner of the dairy case and if:

(a) the dairy case is marked on at least two sides with a registered name or mark; and

(b) a notice to the public, warning that use by any person other than the registered owner is punishable by law, is visibly displayed on the dairy case.

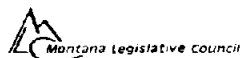
(2) A person found to be in possession of a dairy case bearing a registered name or mark and a notice is presumed to be illegally in possession of the dairy case. Possession places a burden on the person having possession to remove the effect of the possession as a circumstance to be considered with all other evidence presented at trial.

(3) A person convicted of the offense of unlawful appropriation of a dairy case shall be fined \$25 for each dairy case in his possession, and a jail sentence may not be imposed. Bond for this offense is \$25 for each dairy case in the person's possession.

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person, firm, corporation, or association owning dairy cases as defined in [section 1] may register with the secretary of state a description of the name or mark affixed or stamped on the dairy cases for identification purposes. If the

SECOND READING



1 secretary of state determines that the name or mark does not
 2 duplicate or so closely resemble any other name or mark
 3 registered under this section as to be misleading,
 4 deceiving, or confusing, the secretary of state shall
 5 register and record the name or mark.

6 **Section 4.** Section 3-10-601, MCA, is amended to read:

7 "3-10-601. Collection and disposition of fines,
 8 penalties, forfeitures, and fees. (1) Each justice of the
 9 peace shall collect the fees prescribed by law for justices'
 10 courts and shall pay them into the county treasury of the
 11 county wherein he holds office, on or before the 10th day of
 12 each month, to be credited to the general fund of the
 13 county.

14 (2) All fines, penalties, and forfeitures, except for
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1 (4) The state treasurer shall distribute money received
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- 3 (a) 23% to the state general fund;
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 13 the state special revenue fund; and
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 15 revenue account for the battered spouses and domestic
 16 violence grant program.

17 (5) Fines collected pursuant to [section 2] must be
 18 distributed by the county treasurer as follows:

- 19 (a) 50% as provided for in subsection (3); and
 20 (b) 50% to the entity arresting an individual convicted
 21 of a violation of [section 2]."

22 **NEW SECTION. Section 5. Codification instruction.** (1)
 23 [Sections 1 and 2] are intended to be codified as an
 24 integral part of Title 45, chapter 6, and the provisions of
 25 Title 45, chapter 6, apply to [sections 1 and 2].

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1 (2) [Section 3] is intended to be codified as an
2 integral part of Title 30, chapter 13, and the provisions of
3 Title 30, chapter 13, apply to [section 3].

4 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS
5 EFFECTIVE JULY 1, 1991.

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