

1 *Senate* BILL NO. *134*
 2 INTRODUCED BY *Nathan Jook*
 3 *Nathan Jook*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LABELING
 5 REQUIREMENTS FOR CERTAIN HAMBURGER AND GROUND BEEF TO STATE

6 CONTENT IN TERMS OF LEAN RATHER THAN FAT; REVISING THE
 7 ACCEPTABLE LEVELS OF LEAN CONTENT FOR LEAN AND EXTRA LEAN
 8 HAMBURGER AND GROUND BEEF; AMENDING SECTIONS 50-31-103 AND
 9 50-31-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

12 **Section 1.** Section 50-31-103, MCA, is amended to read:

13 "50-31-103. Definitions. Unless the context requires
 14 otherwise, in this chapter the following definitions apply:

15 (1) "Advertisement" means representations disseminated
 16 in any manner or by any means, other than by labeling, for
 17 the purpose of inducing or which are likely to induce,
 18 directly or indirectly, the purchase of food, drugs,
 19 devices, or cosmetics.

20 (2) "Approved source" means water from a spring,
 21 artesian well, drilled well, municipal water supply, or
 22 other source that has been found by the department to be of
 23 a safe and sanitary quality.

24 (3) "Artesian water" means water that is forced from
 25 below the ground toward the surface through a well by

1 natural underground pressure.

2 (4) "Beef patty mix" means "hamburger" or "ground beef"
 3 to which have been added binders or extenders as those terms
 4 are understood by general custom and usage in the food
 5 industry.

6 (5) "Bottled water" means carbonated, demineralized,
 7 distilled, fluoridated, mineral, purified, sparkling, or
 8 other water that is from an approved source that is
 9 disinfected and placed in a sealed container or package for
 10 human consumption.

11 (6) "Carbonated water" or "sparkling water" means water
 12 that contains carbon dioxide.

13 (7) "Color" includes black, white, and intermediate
 14 grays.

15 (8) (a) "Color additive" means a material which:

16 (i) is a dye, pigment, or other substance made by a
 17 process of synthesis or similar artifice or extracted,
 18 isolated, or otherwise derived, with or without intermediate
 19 or final change of identity, from a vegetable, animal,
 20 mineral, or other source; or

21 (ii) when added or applied to a food, drug, or cosmetic
 22 or to the human body is capable (alone or through reaction
 23 with other substance) of imparting color thereto.

24 (b) This term does not include material which has been
 25 or is exempted under the federal act.



1 (9) "Consumer commodity", except as otherwise
2 specifically provided by this subsection, means any food,
3 drug, device, or cosmetic as those terms are defined by this
4 chapter or by the federal act and regulations pursuant
5 thereto. The term does not include:

- 6 (a) any tobacco or tobacco product;
- 7 (b) a commodity subject to packaging or labeling
8 requirements imposed under the Federal Insecticide,
9 Fungicide, and Rodenticide Act or the provisions of the
10 eighth paragraph under the heading "Bureau of Animal
11 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21
12 U.S.C. 151-157), commonly known as the virus, serum, and
13 toxin act;
- 14 (c) a drug subject to 50-31-306(1)(m) or
15 50-31-307(2)(c) or section 503(b)(1) or 506 of the federal
16 act;
- 17 (d) a beverage subject to or complying with packaging
18 or labeling requirements imposed under the Federal Alcohol
19 Administration Act (27 U.S.C., et seq.); or
- 20 (e) a commodity subject to the Federal Seed Act (7
21 U.S.C. 1551-1610).
- 22 (10) "Contaminated with filth" applies to a food, drug,
23 device, or cosmetic not securely protected from dust, dirt,
24 and, as far as may be necessary by all reasonable means,
25 from foreign or injurious contaminations.

1 (11) "Cosmetic" means:

- 2 (a) articles intended to be rubbed, poured, sprinkled,
3 sprayed on, introduced into, or otherwise applied to the
4 human body for cleansing, beautifying, promoting
5 attractiveness, or altering the appearance;
- 6 (b) articles intended for use as a component of these
7 articles, except that the term does not include soap.
- 8 (12) "Counterfeit drug" means a drug, drug container, or
9 drug label which, without authorization bears the trademark,
10 trade name, or other identifying mark, imprint, or device or
11 any likeness thereof of a drug manufacturer, processor,
12 packer, or distributor other than the person who in fact
13 manufactured, processed, packed, or distributed the drug and
14 which falsely purports or is represented to be the product
15 of or to have been packed or distributed by the other drug
16 manufacturer, processor, packer, or distributor.
- 17 (13) "Demineralized water" means water that has been
18 demineralized by distillation, deionization, reverse
19 osmosis, or other methods and contains not more than 10
20 parts per million total solids.
- 21 (14) "Department" means the department of health and
22 environmental sciences provided for in Title 2, chapter 15,
23 part 21.
- 24 (15) "Device" (except when used in 50-31-107(2),
25 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and

1 50-31-501(10)) means instruments, apparatus, and
 2 contrivances, including their components, parts, and
 3 accessories, intended:

4 (a) for use in the diagnosis, cure, mitigation,
 5 treatment, or prevention of disease in man or other animals;

6 (b) to affect the structure or function of the body of
 7 man or other animals.

8 (16) "Distilled water" means purified water that has
 9 been vaporized and condensed.

10 (17) "Drinking water" means water that has undergone
 11 purification, distillation, demineralization,
 12 mineralization, activated carbon or particulate filtration,
 13 fluoridation, carbonation, or other similar process or has
 14 undergone minimum treatment consisting of ozonization or an
 15 acceptable disinfection process.

16 (18) "Drug" means:

17 (a) articles recognized in the official United States
 18 Pharmacopoeia, official National Formulary, or a supplement
 19 to either of these;

20 (b) articles intended for use in the diagnosis, cure,
 21 mitigation, treatment, or prevention of disease in man or
 22 other animals;

23 (c) articles (other than food) intended to affect the
 24 structure or function of the body of man or other animals;

25 (d) articles intended for use as components of any

1 article specified in subsections (a), (b), or (c) but does
 2 not include devices or their components, parts, or
 3 accessories.

4 (19) "Federal act" means the Federal Food, Drug, and
 5 Cosmetic Act, as amended (Title 21 U.S.C. 301, et seq.).

6 (20) "Fluoridated water" means water that contains,
 7 naturally or by addition, fluoride ions in quantities of not
 8 less than 0.7 and not more than 1.4 milligrams per liter and
 9 complies with the food and drug administration quality
 10 standards set forth in 21 CFR 103.35.

11 (21) "Food" means:

12 (a) articles used for food or drink for man or other
 13 animals;

14 (b) chewing gum; and

15 (c) articles used for components of these articles.

16 (22) (a) "Food additive" means a substance, the intended
 17 use of which results or may be reasonably expected to
 18 result, directly or indirectly, in its becoming a component
 19 or otherwise affecting the characteristics of food
 20 (including a substance intended for use in producing,
 21 manufacturing, packing, processing, preparing, treating,
 22 packaging, transporting, or holding food and including a
 23 source of radiation intended for this use), if the substance
 24 is not generally recognized, among experts qualified by
 25 scientific training and experience to evaluate its safety,

1 as having been adequately shown through scientific
2 procedures (or, in the case of a substance used in a food
3 prior to January 1, 1958, through either scientific
4 procedures or experience based on common use in food) to be
5 safe under the conditions of its intended use.

6 (b) This term does not include:

7 (i) a pesticide chemical in or on a raw agricultural
8 commodity;

9 (ii) a pesticide chemical to the extent that it is
10 intended for use or is used in the production, storage, or
11 transportation of a raw agricultural commodity;

12 (iii) a color additive;

13 (iv) a substance used in accordance with a sanction or
14 approval granted prior to the enactment of the Food
15 Additives Amendment of 1958, pursuant to the federal act,
16 the Poultry Products Inspection Act (21 U.S.C. 451, et
17 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
18 1260), as amended and extended (21 U.S.C. 71, et seq.).

19 (23) "Food service establishment" means a restaurant,
20 catering vehicle, vending machine, delicatessen, fast-food
21 retailer, or any other place that serves food to the public
22 for consumption either at or away from the point of service,
23 and any facility operated by a governmental entity where
24 food is served.

25 (24) "Hamburger" or "ground beef" means ground fresh or

1 frozen beef or a combination of both fresh and frozen beef,
2 with or without the addition of suet, to which no water,
3 binders, or extenders are added. There are three grades of
4 hamburger or ground beef:

5 (a) "economy regular hamburger" or "economy regular
6 ground beef" may have a fat lean content no greater less
7 than the federal standard set forth in 9 C.F.R. 319.15;

8 (b) "regular lean hamburger" or "regular lean ground
9 beef" may have a fat lean content no greater less than 21%
10 80%;

11 (c) "extra lean hamburger" or "extra lean ground beef"
12 may have a fat lean content no greater less than 18% 85%.

13 (25) "Honey" means the nectar and saccharine exudations
14 of plants gathered, modified, and stored in the comb by
15 honey bees; is levorotatory, contains not more than 25% of
16 water, not more than .25% of ash, and not more than 8%
17 sucrose.

18 (26) "Label" means a display of written, printed, or
19 graphic matter on the immediate container of an article.
20 ("Immediate container" does not include package liners.)

21 (27) "Labeling" means labels and other written, printed,
22 or graphic matter:

23 (a) on an article or its containers or wrappers;

24 (b) accompanying the article.

25 (28) "Menu" means any list presented to the patron which

1 states the food items for sale in a food service
2 establishment.

3 (29) "Mineral water" means water that contains more than
4 500 parts per million total dissolved mineral solids.

5 (30) "New drug" means a drug, the composition of which
6 is such that:

7 (a) it is not generally recognized, among experts
8 qualified by scientific training and experience to evaluate
9 the safety and effectiveness of drugs, as safe and effective
10 for use under the conditions prescribed, recommended, or
11 suggested in its labeling; or

12 (b) the drug, as a result of investigations to
13 determine its safety and effectiveness for use under the
14 conditions prescribed, has become so recognized but which
15 has not, otherwise than in the investigations, been used to
16 a material extent or for a material time under the
17 conditions prescribed.

18 (31) "Official compendium" means the official United
19 States Pharmacopoeia, official National Formulary, or a
20 supplement to either of these.

21 (32) "Organic food" means food that conforms to the
22 definition in 50-31-222.

23 (33) "Package" means a container or wrapping in which a
24 consumer commodity is enclosed for use in the delivery or
25 display of that consumer commodity to retail purchasers but

1 does not include:

2 (a) shipping containers or wrappings used solely for
3 the transportation of a consumer commodity in bulk or in
4 quantity to manufacturers, packers, or processors or to
5 wholesale or retail distributors;

6 (b) shipping containers or outer wrappings used by
7 retailers to ship or deliver a commodity to retail customers
8 if the containers and wrappings bear no printed matter
9 pertaining to a particular commodity.

10 (34) "Person" includes an individual, partnership,
11 corporation, and association.

12 (35) "Pesticide chemical" means a substance which alone,
13 in chemical combination, or in formulation with one or more
14 other substances is an "economic poison" under the Federal
15 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., secs.
16 135-135k), as amended, and which is used in the production,
17 storage, or transportation of raw agricultural commodities.

18 (36) "Placard" means any nonpermanent sign used to
19 display or describe food items for sale in a food service
20 establishment or retail establishment.

21 (37) "Principal display panel" means that part of a
22 label that is most likely to be displayed, presented, shown,
23 or examined under normal and customary conditions of display
24 for retail sale.

25 (38) "Processing" means cooking, baking, heating,

1 drying, mixing, grinding, churning, separating, extracting,
2 cutting, freezing, or otherwise manufacturing a food or
3 changing the physical characteristics of a food, and the
4 enclosure of such food in a package.

5 (39) "Purified water" means water produced by
6 distillation, deionization, reverse osmosis, or other method
7 and that meets the definition of purified water in the 20th
8 edition of the pharmacopoeia of the United States of
9 America, 1980.

10 (40) "Raw agricultural commodity" means food in its raw
11 or natural state, including fruits that are washed, colored,
12 or otherwise treated in their unpeeled natural form prior to
13 marketing.

14 (41) "Retail establishment" means a commercial
15 establishment at which meat or meat products are displayed
16 for sale or provision to the public, with or without charge.

17 (42) "Spring water" means water that originates in an
18 underground formation and flows naturally, without external
19 force or vacuum, to a natural orifice in the surface of the
20 earth.

21 (43) "State board" or "board" means the board of health
22 and environmental sciences provided for in 2-15-2104.

23 (44) "Synthetically compounded" means a product
24 formulated by a process that chemically changes a material
25 or substance extracted from naturally occurring plant,

1 animal, or mineral sources, except for microbiological
2 processes.

3 (45) "Water-bottling plant" means any facility in which
4 bottled water is produced.

5 (46) "Well water" means water that:

6 (a) is taken from below the ground through a piping
7 device or similar installed device utilizing external force
8 or vacuum;

9 (b) is not modified in its mineral content; and

10 (c) may have undergone minimum treatment consisting of
11 ozonization or an acceptable disinfection process."

12 **Section 2.** Section 50-31-208, MCA, is amended to read:

13 **"50-31-208. Sale of hamburger and beef patty mix.** (1)
14 No food service establishment or retail establishment may
15 use the terms "hamburger", "burger", or other similar term
16 in any advertisement or menu to refer to any beef patty mix.
17 A food service establishment or retail establishment selling
18 or serving beef patty mix may refer to the product as "beef
19 patty mix" or by any other term which accurately informs the
20 customer of the nature of the food product which he is sold
21 or served.

22 (2) If beef patty mix is sold or served in a food
23 service establishment or retail establishment, a list of
24 ingredients must appear on the menu or label, or, if there
25 is no menu or label, on a placard as follows:

1 (a) The term "beef patty mix" or any other term which
2 accurately informs the customer of the nature of the food
3 product and its ingredients must be included.

4 (b) The ingredients must be listed in descending order
5 of predominance by weight.

6 (c) If there is no menu or label, the lettering on the
7 placard must be at least 1 inch in height (72-point letters)
8 in boldface and in colors that contrast with the placard.

9 (d) The placard must be posted in a permanent place,
10 conspicuous to the customer, in each room or area where food
11 is served or sold at retail.

12 (3) If hamburger or ground beef is sold in a retail
13 establishment, the grade, as defined in 50-31-103(24), and
14 the ~~maximum-fat~~ minimum lean content must appear on each
15 displayed package or, if the product is not packaged for
16 display, on a placard. If a placard is used, it must satisfy
17 the requirements of subsections (2)(c) and (2)(d) of this
18 section. The provisions of this subsection do not apply to
19 the service of prepared hamburger or ground beef at a food
20 service establishment."

21 NEW SECTION. Section 3. Effective date. [This act] is
22 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 134

INTRODUCED BY DEVLIN, STEPLER, SWYSGOOD, T. BECK, CODY,
NATHE, ZOOK, KASTEN, GRINDE, HANSEN, M. HANSON, REA,
D. BROWN, PIPINICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LABELING
REQUIREMENTS FOR CERTAIN HAMBURGER AND GROUND BEEF TO STATE
CONTENT IN TERMS OF LEAN RATHER-THAN AND FAT; REVISING THE
ACCEPTABLE LEVELS OF LEAN FAT CONTENT FOR LEAN AND EXTRA
LEAN HAMBURGER AND GROUND BEEF; PROVIDING FOR A SUPER LEAN
GRADE OF HAMBURGER AND GROUND BEEF; AMENDING SECTIONS
50-31-103 AND 50-31-208, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

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

Section 1. Section 50-31-103, MCA, is amended to read:

"50-31-103. Definitions. Unless the context requires
otherwise, in this chapter the following definitions apply:

(1) "Advertisement" means representations disseminated
in any manner or by any means, other than by labeling, for
the purpose of inducing or which are likely to induce,
directly or indirectly, the purchase of food, drugs,
devices, or cosmetics.

(2) "Approved source" means water from a spring,
artesian well, drilled well, municipal water supply, or

other source that has been found by the department to be of
a safe and sanitary quality.

(3) "Artesian water" means water that is forced from
below the ground toward the surface through a well by
natural underground pressure.

(4) "Beef patty mix" means "hamburger" or "ground beef"
to which have been added binders or extenders as those terms
are understood by general custom and usage in the food
industry.

(5) "Bottled water" means carbonated, demineralized,
distilled, fluoridated, mineral, purified, sparkling, or
other water that is from an approved source that is
disinfected and placed in a sealed container or package for
human consumption.

(6) "Carbonated water" or "sparkling water" means water
that contains carbon dioxide.

(7) "Color" includes black, white, and intermediate
grays.

(8) (a) "Color additive" means a material which:

(i) is a dye, pigment, or other substance made by a
process of synthesis or similar artifice or extracted,
isolated, or otherwise derived, with or without intermediate
or final change of identity, from a vegetable, animal,
mineral, or other source; or

(ii) when added or applied to a food, drug, or cosmetic

SECOND READING

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1 or to the human body is capable (alone or through reaction
2 with other substance) of imparting color thereto.

3 (b) This term does not include material which has been
4 or is exempted under the federal act.

5 (9) "Consumer commodity", except as otherwise
6 specifically provided by this subsection, means any food,
7 drug, device, or cosmetic as those terms are defined by this
8 chapter or by the federal act and regulations pursuant
9 thereto. The term does not include:

10 (a) any tobacco or tobacco product;

11 (b) a commodity subject to packaging or labeling
12 requirements imposed under the Federal Insecticide,
13 Fungicide, and Rodenticide Act or the provisions of the
14 eighth paragraph under the heading "Bureau of Animal
15 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21
16 U.S.C. 151-157), commonly known as the virus, serum, and
17 toxin act;

18 (c) a drug subject to 50-31-306(1)(m) or
19 50-31-307(2)(c) or section 503(b)(1) or 506 of the federal
20 act;

21 (d) a beverage subject to or complying with packaging
22 or labeling requirements imposed under the Federal Alcohol
23 Administration Act (27 U.S.C., et seq.); or

24 (e) a commodity subject to the Federal Seed Act (7
25 U.S.C. 1551-1610).

1 (10) "Contaminated with filth" applies to a food, drug,
2 device, or cosmetic not securely protected from dust, dirt,
3 and, as far as may be necessary by all reasonable means,
4 from foreign or injurious contaminations.

5 (11) "Cosmetic" means:

6 (a) articles intended to be rubbed, poured, sprinkled,
7 sprayed on, introduced into, or otherwise applied to the
8 human body for cleansing, beautifying, promoting
9 attractiveness, or altering the appearance;

10 (b) articles intended for use as a component of these
11 articles, except that the term does not include soap.

12 (12) "Counterfeit drug" means a drug, drug container, or
13 drug label which, without authorization bears the trademark,
14 trade name, or other identifying mark, imprint, or device or
15 any likeness thereof of a drug manufacturer, processor,
16 packer, or distributor other than the person who in fact
17 manufactured, processed, packed, or distributed the drug and
18 which falsely purports or is represented to be the product
19 of or to have been packed or distributed by the other drug
20 manufacturer, processor, packer, or distributor.

21 (13) "Demineralized water" means water that has been
22 demineralized by distillation, deionization, reverse
23 osmosis, or other methods and contains not more than 10
24 parts per million total solids.

25 (14) "Department" means the department of health and

1 environmental sciences provided for in Title 2, chapter 15,
2 part 21.

3 (15) "Device" (except when used in 50-31-107(2),
4 50-31-203(6), 50-31-306(1)(c) and (1)(g), 50-31-402(3), and
5 50-31-501(10)) means instruments, apparatus, and
6 contrivances, including their components, parts, and
7 accessories, intended:

8 (a) for use in the diagnosis, cure, mitigation,
9 treatment, or prevention of disease in man or other animals;

10 (b) to affect the structure or function of the body of
11 man or other animals.

12 (16) "Distilled water" means purified water that has
13 been vaporized and condensed.

14 (17) "Drinking water" means water that has undergone
15 purification, distillation, demineralization,
16 mineralization, activated carbon or particulate filtration,
17 fluoridation, carbonation, or other similar process or has
18 undergone minimum treatment consisting of ozonization or an
19 acceptable disinfection process.

20 (18) "Drug" means:

21 (a) articles recognized in the official United States
22 Pharmacopoeia, official National Formulary, or a supplement
23 to either of these;

24 (b) articles intended for use in the diagnosis, cure,
25 mitigation, treatment, or prevention of disease in man or

1 other animals;

2 (c) articles (other than food) intended to affect the
3 structure or function of the body of man or other animals;

4 (d) articles intended for use as components of any
5 article specified in subsections (a), (b), or (c) but does
6 not include devices or their components, parts, or
7 accessories.

8 (19) "Federal act" means the Federal Food, Drug, and
9 Cosmetic Act, as amended (Title 21 U.S.C. 301, et seq.).

10 (20) "Fluoridated water" means water that contains,
11 naturally or by addition, fluoride ions in quantities of not
12 less than 0.7 and not more than 1.4 milligrams per liter and
13 complies with the food and drug administration quality
14 standards set forth in 21 CFR 103.35.

15 (21) "Food" means:

16 (a) articles used for food or drink for man or other
17 animals;

18 (b) chewing gum; and

19 (c) articles used for components of these articles.

20 (22) (a) "Food additive" means a substance, the intended
21 use of which results or may be reasonably expected to
22 result, directly or indirectly, in its becoming a component
23 or otherwise affecting the characteristics of food
24 (including a substance intended for use in producing,
25 manufacturing, packing, processing, preparing, treating,

1 packaging, transporting, or holding food and including a
 2 source of radiation intended for this use), if the substance
 3 is not generally recognized, among experts qualified by
 4 scientific training and experience to evaluate its safety,
 5 as having been adequately shown through scientific
 6 procedures (or, in the case of a substance used in a food
 7 prior to January 1, 1958, through either scientific
 8 procedures or experience based on common use in food) to be
 9 safe under the conditions of its intended use.

10 (b) This term does not include:

11 (i) a pesticide chemical in or on a raw agricultural
 12 commodity;

13 (ii) a pesticide chemical to the extent that it is
 14 intended for use or is used in the production, storage, or
 15 transportation of a raw agricultural commodity;

16 (iii) a color additive;

17 (iv) a substance used in accordance with a sanction or
 18 approval granted prior to the enactment of the Food
 19 Additives Amendment of 1958, pursuant to the federal act,
 20 the Poultry Products Inspection Act (21 U.S.C. 451, et
 21 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
 22 1260), as amended and extended (21 U.S.C. 71, et seq.).

23 (23) "Food service establishment" means a restaurant,
 24 catering vehicle, vending machine, delicatessen, fast-food
 25 retailer, or any other place that serves food to the public

1 for consumption either at or away from the point of service,
 2 and any facility operated by a governmental entity where
 3 food is served.

4 (24) "Hamburger" or "ground beef" means ground fresh or
 5 frozen beef or a combination of both fresh and frozen beef,
 6 with or without the addition of suet, to which no water,
 7 binders, or extenders are added. There are three FOUR grades
 8 of hamburger or ground beef:

9 (a) "economy regular hamburger" or "economy regular
 10 ground beef" may have:

11 (I) a fat lean FAT content no greater less GREATER than
 12 the federal standard set forth in 9 C.F.R. 319.15; AND

13 (II) A LEAN CONTENT OF NO LESS THAN 70%;

14 (b) "regular lean hamburger" or "regular lean ground
 15 beef" may have:

16 (I) a fat lean FAT content no greater less GREATER than
 17 21% 80% 22%; AND

18 (II) A LEAN CONTENT OF NO LESS THAN 78%;

19 (c) "extra lean hamburger" or "extra lean ground beef"
 20 may have:

21 (I) a fat lean FAT content no greater less GREATER than
 22 18% 85% 16%; AND

23 (II) A LEAN CONTENT OF NO LESS THAN 84%; AND

24 (D) "SUPER LEAN HAMBURGER" OR "SUPER LEAN GROUND BEEF"

25 MAY HAVE:

1 (I) A FAT CONTENT NO GREATER THAN 12%; AND

2 (II) A LEAN CONTENT OF NO LESS THAN 88%.

3 (25) "Honey" means the nectar and saccharine exudations
4 of plants gathered, modified, and stored in the comb by
5 honey bees; is levorotatory, contains not more than 25% of
6 water, not more than .25% of ash, and not more than 8%
7 sucrose.

8 (26) "Label" means a display of written, printed, or
9 graphic matter on the immediate container of an article.
10 ("Immediate container" does not include package liners.)

11 (27) "Labeling" means labels and other written, printed,
12 or graphic matter:

13 (a) on an article or its containers or wrappers;

14 (b) accompanying the article.

15 (28) "Menu" means any list presented to the patron which
16 states the food items for sale in a food service
17 establishment.

18 (29) "Mineral water" means water that contains more than
19 500 parts per million total dissolved mineral solids.

20 (30) "New drug" means a drug, the composition of which
21 is such that:

22 (a) it is not generally recognized, among experts
23 qualified by scientific training and experience to evaluate
24 the safety and effectiveness of drugs, as safe and effective
25 for use under the conditions prescribed, recommended, or

1 suggested in its labeling; or

2 (b) the drug, as a result of investigations to
3 determine its safety and effectiveness for use under the
4 conditions prescribed, has become so recognized but which
5 has not, otherwise than in the investigations, been used to
6 a material extent or for a material time under the
7 conditions prescribed.

8 (31) "Official compendium" means the official United
9 States Pharmacopoeia, official National Formulary, or a
10 supplement to either of these.

11 (32) "Organic food" means food that conforms to the
12 definition in 50-31-222.

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14 consumer commodity is enclosed for use in the delivery or
15 display of that consumer commodity to retail purchasers but
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17 (a) shipping containers or wrappings used solely for
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19 quantity to manufacturers, packers, or processors or to
20 wholesale or retail distributors;

21 (b) shipping containers or outer wrappings used by
22 retailers to ship or deliver a commodity to retail customers
23 if the containers and wrappings bear no printed matter
24 pertaining to a particular commodity.

25 (34) "Person" includes an individual, partnership,

1 corporation, and association.

2 (35) "Pesticide chemical" means a substance which alone,
3 in chemical combination, or in formulation with one or more
4 other substances is an "economic poison" under the Federal
5 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., secs.
6 135-135k), as amended, and which is used in the production,
7 storage, or transportation of raw agricultural commodities.

8 (36) "Placard" means any nonpermanent sign used to
9 display or describe food items for sale in a food service
10 establishment or retail establishment.

11 (37) "Principal display panel" means that part of a
12 label that is most likely to be displayed, presented, shown,
13 or examined under normal and customary conditions of display
14 for retail sale.

15 (38) "Processing" means cooking, baking, heating,
16 drying, mixing, grinding, churning, separating, extracting,
17 cutting, freezing, or otherwise manufacturing a food or
18 changing the physical characteristics of a food, and the
19 enclosure of such food in a package.

20 (39) "Purified water" means water produced by
21 distillation, deionization, reverse osmosis, or other method
22 and that meets the definition of purified water in the 20th
23 edition of the pharmacopoeia of the United States of
24 America, 1980.

25 (40) "Raw agricultural commodity" means food in its raw

1 or natural state, including fruits that are washed, colored,
2 or otherwise treated in their unpeeled natural form prior to
3 marketing.

4 (41) "Retail establishment" means a commercial
5 establishment at which meat or meat products are displayed
6 for sale or provision to the public, with or without charge.

7 (42) "Spring water" means water that originates in an
8 underground formation and flows naturally, without external
9 force or vacuum, to a natural orifice in the surface of the
10 earth.

11 (43) "State board" or "board" means the board of health
12 and environmental sciences provided for in 2-15-2104.

13 (44) "Synthetically compounded" means a product
14 formulated by a process that chemically changes a material
15 or substance extracted from naturally occurring plant,
16 animal, or mineral sources, except for microbiological
17 processes.

18 (45) "Water-bottling plant" means any facility in which
19 bottled water is produced.

20 (46) "Well water" means water that:

21 (a) is taken from below the ground through a piping
22 device or similar installed device utilizing external force
23 or vacuum;

24 (b) is not modified in its mineral content; and

25 (c) may have undergone minimum treatment consisting of

1 ozonization or an acceptable disinfection process."

2 **Section 2.** Section 50-31-208, MCA, is amended to read:

3 **"50-31-208. Sale of hamburger and beef patty mix.** (1)
4 No food service establishment or retail establishment may
5 use the terms "hamburger", "burger", or other similar term
6 in any advertisement or menu to refer to any beef patty mix.
7 A food service establishment or retail establishment selling
8 or serving beef patty mix may refer to the product as "beef
9 patty mix" or by any other term which accurately informs the
10 customer of the nature of the food product which he is sold
11 or served.

12 (2) If beef patty mix is sold or served in a food
13 service establishment or retail establishment, a list of
14 ingredients must appear on the menu or label, or, if there
15 is no menu or label, on a placard as follows:

16 (a) The term "beef patty mix" or any other term which
17 accurately informs the customer of the nature of the food
18 product and its ingredients must be included.

19 (b) The ingredients must be listed in descending order
20 of predominance by weight.

21 (c) If there is no menu or label, the lettering on the
22 placard must be at least 1 inch in height (72-point letters)
23 in boldface and in colors that contrast with the placard.

24 (d) The placard must be posted in a permanent place,
25 conspicuous to the customer, in each room or area where food

1 is served or sold at retail.

2 (3) If hamburger or ground beef is sold in a retail
3 establishment, the grade, as defined in 50-31-103(24), and
4 the ~~maximum--fat~~ MAXIMUM FAT AND minimum lean content must
5 appear on each displayed package or, if the product is not
6 packaged for display, on a placard. If a placard is used, it
7 must satisfy the requirements of subsections (2)(c) and
8 (2)(d) of this section. The provisions of this subsection do
9 not apply to the service of prepared hamburger or ground
10 beef at a food service establishment."

11 NEW SECTION. **Section 3. Effective date.** [This act] is
12 effective on passage and approval.

-End-

SENATE BILL NO. 134

INTRODUCED BY DEVLIN, STEPLER, SWYSGOOD, T. BECK, CODY,
NATHE, ZOOK, KASTEN, GRINDE, HANSEN, M. HANSON, REA,
D. BROWN, PIPINICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LABELING
REQUIREMENTS FOR CERTAIN HAMBURGER AND GROUND BEEF TO STATE
CONTENT IN TERMS OF LEAN RATHER-THAN AND FAT; REVISING THE
ACCEPTABLE LEVELS OF LEAN FAT CONTENT FOR LEAN AND EXTRA
LEAN HAMBURGER AND GROUND BEEF; PROVIDING FOR A SUPER LEAN
GRADE OF HAMBURGER AND GROUND BEEF; AMENDING SECTIONS
50-31-103 AND 50-31-208, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

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

Section 1. Section 50-31-103, MCA, is amended to read:

"50-31-103. Definitions. Unless the context requires
otherwise, in this chapter the following definitions apply:

(1) "Advertisement" means representations disseminated
in any manner or by any means, other than by labeling, for
the purpose of inducing or which are likely to induce,
directly or indirectly, the purchase of food, drugs,
devices, or cosmetics.

(2) "Approved source" means water from a spring,
artesian well, drilled well, municipal water supply, or

other source that has been found by the department to be of
a safe and sanitary quality.

(3) "Artesian water" means water that is forced from
below the ground toward the surface through a well by
natural underground pressure.

(4) "Beef patty mix" means "hamburger" or "ground beef"
to which have been added binders or extenders as those terms
are understood by general custom and usage in the food
industry.

(5) "Bottled water" means carbonated, demineralized,
distilled, fluoridated, mineral, purified, sparkling, or
other water that is from an approved source that is
disinfected and placed in a sealed container or package for
human consumption.

(6) "Carbonated water" or "sparkling water" means water
that contains carbon dioxide.

(7) "Color" includes black, white, and intermediate
grays.

(8) (a) "Color additive" means a material which:
(i) is a dye, pigment, or other substance made by a
process of synthesis or similar artifice or extracted,
isolated, or otherwise derived, with or without intermediate
or final change of identity, from a vegetable, animal,
mineral, or other source; or

(ii) when added or applied to a food, drug, or cosmetic

THIRD READING



1 or to the human body is capable (alone or through reaction
2 with other substance) of imparting color thereto.

3 (b) This term does not include material which has been
4 or is exempted under the federal act.

5 (9) "Consumer commodity", except as otherwise
6 specifically provided by this subsection, means any food,
7 drug, device, or cosmetic as those terms are defined by this
8 chapter or by the federal act and regulations pursuant
9 thereto. The term does not include:

10 (a) any tobacco or tobacco product;

11 (b) a commodity subject to packaging or labeling
12 requirements imposed under the Federal Insecticide,
13 Fungicide, and Rodenticide Act or the provisions of the
14 eighth paragraph under the heading "Bureau of Animal
15 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21
16 U.S.C. 151-157), commonly known as the virus, serum, and
17 toxin act;

18 (c) a drug subject to 50-31-306(1)(m) or
19 50-31-307(2)(c) or section 503(b)(1) or 506 of the federal
20 act;

21 (d) a beverage subject to or complying with packaging
22 or labeling requirements imposed under the Federal Alcohol
23 Administration Act (27 U.S.C., et seq.); or

24 (e) a commodity subject to the Federal Seed Act (7
25 U.S.C. 1551-1610).

1 (10) "Contaminated with filth" applies to a food, drug,
2 device, or cosmetic not securely protected from dust, dirt,
3 and, as far as may be necessary by all reasonable means,
4 from foreign or injurious contaminations.

5 (11) "Cosmetic" means:

6 (a) articles intended to be rubbed, poured, sprinkled,
7 sprayed on, introduced into, or otherwise applied to the
8 human body for cleansing, beautifying, promoting
9 attractiveness, or altering the appearance;

10 (b) articles intended for use as a component of these
11 articles, except that the term does not include soap.

12 (12) "Counterfeit drug" means a drug, drug container, or
13 drug label which, without authorization bears the trademark,
14 trade name, or other identifying mark, imprint, or device or
15 any likeness thereof of a drug manufacturer, processor,
16 packer, or distributor other than the person who in fact
17 manufactured, processed, packed, or distributed the drug and
18 which falsely purports or is represented to be the product
19 of or to have been packed or distributed by the other drug
20 manufacturer, processor, packer, or distributor.

21 (13) "DeminerIALIZED water" means water that has been
22 deminerIALIZED by distillation, deionization, reverse
23 osmosis, or other methods and contains not more than 10
24 parts per million total solids.

25 (14) "Department" means the department of health and

1 environmental sciences provided for in Title 2, chapter 15,
2 part 21.

3 (15) "Device" (except when used in 50-31-107(2),
4 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and
5 50-31-501(10)) means instruments, apparatus, and
6 contrivances, including their components, parts, and
7 accessories, intended:

8 (a) for use in the diagnosis, cure, mitigation,
9 treatment, or prevention of disease in man or other animals;

10 (b) to affect the structure or function of the body of
11 man or other animals.

12 (16) "Distilled water" means purified water that has
13 been vaporized and condensed.

14 (17) "Drinking water" means water that has undergone
15 purification, distillation, demineralization,
16 mineralization, activated carbon or particulate filtration,
17 fluoridation, carbonation, or other similar process or has
18 undergone minimum treatment consisting of ozonization or an
19 acceptable disinfection process.

20 (18) "Drug" means:

21 (a) articles recognized in the official United States
22 Pharmacopoeia, official National Formulary, or a supplement
23 to either of these;

24 (b) articles intended for use in the diagnosis, cure,
25 mitigation, treatment, or prevention of disease in man or

1 other animals;

2 (c) articles (other than food) intended to affect the
3 structure or function of the body of man or other animals;

4 (d) articles intended for use as components of any
5 article specified in subsections (a), (b), or (c) but does
6 not include devices or their components, parts, or
7 accessories.

8 (19) "Federal act" means the Federal Food, Drug, and
9 Cosmetic Act, as amended (Title 21 U.S.C. 301, et seq.).

10 (20) "Fluoridated water" means water that contains,
11 naturally or by addition, fluoride ions in quantities of not
12 less than 0.7 and not more than 1.4 milligrams per liter and
13 complies with the food and drug administration quality
14 standards set forth in 21 CFR 103.35.

15 (21) "Food" means:

16 (a) articles used for food or drink for man or other
17 animals;

18 (b) chewing gum; and

19 (c) articles used for components of these articles.

20 (22) (a) "Food additive" means a substance, the intended
21 use of which results or may be reasonably expected to
22 result, directly or indirectly, in its becoming a component
23 or otherwise affecting the characteristics of food
24 (including a substance intended for use in producing,
25 manufacturing, packing, processing, preparing, treating,

1 packaging, transporting, or holding food and including a
 2 source of radiation intended for this use), if the substance
 3 is not generally recognized, among experts qualified by
 4 scientific training and experience to evaluate its safety,
 5 as having been adequately shown through scientific
 6 procedures (or, in the case of a substance used in a food
 7 prior to January 1, 1958, through either scientific
 8 procedures or experience based on common use in food) to be
 9 safe under the conditions of its intended use.

10 (b) This term does not include:

11 (i) a pesticide chemical in or on a raw agricultural
 12 commodity;

13 (ii) a pesticide chemical to the extent that it is
 14 intended for use or is used in the production, storage, or
 15 transportation of a raw agricultural commodity;

16 (iii) a color additive;

17 (iv) a substance used in accordance with a sanction or
 18 approval granted prior to the enactment of the Food
 19 Additives Amendment of 1958, pursuant to the federal act,
 20 the Poultry Products Inspection Act (21 U.S.C. 451, et
 21 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
 22 1260), as amended and extended (21 U.S.C. 71, et seq.).

23 (23) "Food service establishment" means a restaurant,
 24 catering vehicle, vending machine, delicatessen, fast-food
 25 retailer, or any other place that serves food to the public

1 for consumption either at or away from the point of service,
 2 and any facility operated by a governmental entity where
 3 food is served.

4 (24) "Hamburger" or "ground beef" means ground fresh or
 5 frozen beef or a combination of both fresh and frozen beef,
 6 with or without the addition of suet, to which no water,
 7 binders, or extenders are added. There are three FOUR grades
 8 of hamburger or ground beef:

9 (a) "economy regular hamburger" or "economy regular
 10 ground beef" may have:

11 (I) a fat ~~lean~~ FAT content no greater ~~less~~ GREATER than
 12 the federal standard set forth in 9 C.F.R. 319.15; AND

13 (II) A LEAN CONTENT OF NO LESS THAN 70%;

14 (b) "regular lean hamburger" or "regular lean ground
 15 beef" may have:

16 (I) a fat ~~lean~~ FAT content no greater ~~less~~ GREATER than
 17 21% ~~80%~~ 22%; AND

18 (II) A LEAN CONTENT OF NO LESS THAN 78%;

19 (c) "extra lean hamburger" or "extra lean ground beef"
 20 may have:

21 (I) a fat ~~lean~~ FAT content no greater ~~less~~ GREATER than
 22 18% ~~85%~~ 16%; AND

23 (II) A LEAN CONTENT OF NO LESS THAN 84%; AND

24 (D) "SUPER LEAN HAMBURGER" OR "SUPER LEAN GROUND BEEF"
 25 MAY HAVE:

1 (I) A FAT CONTENT NO GREATER THAN 12%; AND

2 (II) A LEAN CONTENT OF NO LESS THAN 88%.

3 (25) "Honey" means the nectar and saccharine exudations
4 of plants gathered, modified, and stored in the comb by
5 honey bees; is levorotatory, contains not more than 25% of
6 water, not more than .25% of ash, and not more than 8%
7 sucrose.

8 (26) "Label" means a display of written, printed, or
9 graphic matter on the immediate container of an article.
10 ("Immediate container" does not include package liners.)

11 (27) "Labeling" means labels and other written, printed,
12 or graphic matter:

- 13 (a) on an article or its containers or wrappers;
14 (b) accompanying the article.

15 (28) "Menu" means any list presented to the patron which
16 states the food items for sale in a food service
17 establishment.

18 (29) "Mineral water" means water that contains more than
19 500 parts per million total dissolved mineral solids.

20 (30) "New drug" means a drug, the composition of which
21 is such that:

- 22 (a) it is not generally recognized, among experts
23 qualified by scientific training and experience to evaluate
24 the safety and effectiveness of drugs, as safe and effective
25 for use under the conditions prescribed, recommended, or

1 suggested in its labeling; or

2 (b) the drug, as a result of investigations to
3 determine its safety and effectiveness for use under the
4 conditions prescribed, has become so recognized but which
5 has not, otherwise than in the investigations, been used to
6 a material extent or for a material time under the
7 conditions prescribed.

8 (31) "Official compendium" means the official United
9 States Pharmacopoeia, official National Formulary, or a
10 supplement to either of these.

11 (32) "Organic food" means food that conforms to the
12 definition in 50-31-222.

13 (33) "Package" means a container or wrapping in which a
14 consumer commodity is enclosed for use in the delivery or
15 display of that consumer commodity to retail purchasers but
16 does not include:

17 (a) shipping containers or wrappings used solely for
18 the transportation of a consumer commodity in bulk or in
19 quantity to manufacturers, packers, or processors or to
20 wholesale or retail distributors;

21 (b) shipping containers or outer wrappings used by
22 retailers to ship or deliver a commodity to retail customers
23 if the containers and wrappings bear no printed matter
24 pertaining to a particular commodity.

25 (34) "Person" includes an individual, partnership,

1 corporation, and association.

2 (35) "Pesticide chemical" means a substance which alone,
3 in chemical combination, or in formulation with one or more
4 other substances is an "economic poison" under the Federal
5 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., secs.
6 135-135k), as amended, and which is used in the production,
7 storage, or transportation of raw agricultural commodities.

8 (36) "Placard" means any nonpermanent sign used to
9 display or describe food items for sale in a food service
10 establishment or retail establishment.

11 (37) "Principal display panel" means that part of a
12 label that is most likely to be displayed, presented, shown,
13 or examined under normal and customary conditions of display
14 for retail sale.

15 (38) "Processing" means cooking, baking, heating,
16 drying, mixing, grinding, churning, separating, extracting,
17 cutting, freezing, or otherwise manufacturing a food or
18 changing the physical characteristics of a food, and the
19 enclosure of such food in a package.

20 (39) "Purified water" means water produced by
21 distillation, deionization, reverse osmosis, or other method
22 and that meets the definition of purified water in the 20th
23 edition of the pharmacopoeia of the United States of
24 America, 1980.

25 (40) "Raw agricultural commodity" means food in its raw

1 or natural state, including fruits that are washed, colored,
2 or otherwise treated in their unpeeled natural form prior to
3 marketing.

4 (41) "Retail establishment" means a commercial
5 establishment at which meat or meat products are displayed
6 for sale or provision to the public, with or without charge.

7 (42) "Spring water" means water that originates in an
8 underground formation and flows naturally, without external
9 force or vacuum, to a natural orifice in the surface of the
10 earth.

11 (43) "State board" or "board" means the board of health
12 and environmental sciences provided for in 2-15-2104.

13 (44) "Synthetically compounded" means a product
14 formulated by a process that chemically changes a material
15 or substance extracted from naturally occurring plant,
16 animal, or mineral sources, except for microbiological
17 processes.

18 (45) "Water-bottling plant" means any facility in which
19 bottled water is produced.

20 (46) "Well water" means water that:

21 (a) is taken from below the ground through a piping
22 device or similar installed device utilizing external force
23 or vacuum;

24 (b) is not modified in its mineral content; and

25 (c) may have undergone minimum treatment consisting of

1 ozonization or an acceptable disinfection process."

2 **Section 2.** Section 50-31-208, MCA, is amended to read:

3 **"50-31-208. Sale of hamburger and beef patty mix.** (1)

4 No food service establishment or retail establishment may
5 use the terms "hamburger", "burger", or other similar term
6 in any advertisement or menu to refer to any beef patty mix.

7 A food service establishment or retail establishment selling
8 or serving beef patty mix may refer to the product as "beef
9 patty mix" or by any other term which accurately informs the
10 customer of the nature of the food product which he is sold
11 or served.

12 (2) If beef patty mix is sold or served in a food
13 service establishment or retail establishment, a list of
14 ingredients must appear on the menu or label, or, if there
15 is no menu or label, on a placard as follows:

16 (a) The term "beef patty mix" or any other term which
17 accurately informs the customer of the nature of the food
18 product and its ingredients must be included.

19 (b) The ingredients must be listed in descending order
20 of predominance by weight.

21 (c) If there is no menu or label, the lettering on the
22 placard must be at least 1 inch in height (72-point letters)
23 in boldface and in colors that contrast with the placard.

24 (d) The placard must be posted in a permanent place,
25 conspicuous to the customer, in each room or area where food

1 is served or sold at retail.

2 (3) If hamburger or ground beef is sold in a retail
3 establishment, the grade, as defined in 50-31-103(24), and
4 the ~~maximum--fat~~ MAXIMUM FAT AND minimum lean content must
5 appear on each displayed package or, if the product is not
6 packaged for display, on a placard. If a placard is used, it
7 must satisfy the requirements of subsections (2)(c) and
8 (2)(d) of this section. The provisions of this subsection do
9 not apply to the service of prepared hamburger or ground
10 beef at a food service establishment."

11 NEW SECTION. **Section 3. Effective date.** [This act] is
12 effective on passage and approval.

-End-

SENATE BILL NO. 134

INTRODUCED BY DEVLIN, STEPPLER, SWYSGOOD, T. BECK, CODY,
NATHE, ZOOK, KASTEN, GRINDE, HANSEN, M. HANSON, REA,
D. BROWN, PIPINICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LABELING
REQUIREMENTS FOR CERTAIN HAMBURGER AND GROUND BEEF TO STATE
CONTENT IN TERMS OF LEAN RATHER-THAN AND FAT; REVISING THE
ACCEPTABLE LEVELS OF LEAN FAT CONTENT FOR LEAN AND EXTRA
LEAN HAMBURGER AND GROUND BEEF; PROVIDING FOR A SUPER LEAN
GRADE OF HAMBURGER AND GROUND BEEF; AMENDING SECTIONS
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EFFECTIVE DATE."

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

Section 1. Section 50-31-103, MCA, is amended to read:

"50-31-103. Definitions. Unless the context requires
otherwise, in this chapter the following definitions apply:

(1) "Advertisement" means representations disseminated
in any manner or by any means, other than by labeling, for
the purpose of inducing or which are likely to induce,
directly or indirectly, the purchase of food, drugs,
devices, or cosmetics.

(2) "Approved source" means water from a spring,
artesian well, drilled well, municipal water supply, or

other source that has been found by the department to be of
a safe and sanitary quality.

(3) "Artesian water" means water that is forced from
below the ground toward the surface through a well by
natural underground pressure.

(4) "Beef patty mix" means "hamburger" or "ground beef"
to which have been added binders or extenders as those terms
are understood by general custom and usage in the food
industry.

(5) "Bottled water" means carbonated, demineralized,
distilled, fluoridated, mineral, purified, sparkling, or
other water that is from an approved source that is
disinfected and placed in a sealed container or package for
human consumption.

(6) "Carbonated water" or "sparkling water" means water
that contains carbon dioxide.

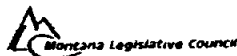
(7) "Color" includes black, white, and intermediate
grays.

(8) (a) "Color additive" means a material which:
(i) is a dye, pigment, or other substance made by a
process of synthesis or similar artifice or extracted,
isolated, or otherwise derived, with or without intermediate
or final change of identity, from a vegetable, animal,
mineral, or other source; or

(ii) when added or applied to a food, drug, or cosmetic

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1 or to the human body is capable (alone or through reaction
2 with other substance) of imparting color thereto.

3 (b) This term does not include material which has been
4 or is exempted under the federal act.

5 (9) "Consumer commodity", except as otherwise
6 specifically provided by this subsection, means any food,
7 drug, device, or cosmetic as those terms are defined by this
8 chapter or by the federal act and regulations pursuant
9 thereto. The term does not include:

10 (a) any tobacco or tobacco product;

11 (b) a commodity subject to packaging or labeling
12 requirements imposed under the Federal Insecticide,
13 Fungicide, and Rodenticide Act or the provisions of the
14 eighth paragraph under the heading "Bureau of Animal
15 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21
16 U.S.C. 151-157), commonly known as the virus, serum, and
17 toxin act;

18 (c) a drug subject to 50-31-306(1)(m) or
19 50-31-307(2)(c) or section 503(b)(1) or 506 of the federal
20 act;

21 (d) a beverage subject to or complying with packaging
22 or labeling requirements imposed under the Federal Alcohol
23 Administration Act (27 U.S.C., et seq.); or

24 (e) a commodity subject to the Federal Seed Act (7
25 U.S.C. 1551-1610).

1 (10) "Contaminated with filth" applies to a food, drug,
2 device, or cosmetic not securely protected from dust, dirt,
3 and, as far as may be necessary by all reasonable means,
4 from foreign or injurious contaminations.

5 (11) "Cosmetic" means:

6 (a) articles intended to be rubbed, poured, sprinkled,
7 sprayed on, introduced into, or otherwise applied to the
8 human body for cleansing, beautifying, promoting
9 attractiveness, or altering the appearance;

10 (b) articles intended for use as a component of these
11 articles, except that the term does not include soap.

12 (12) "Counterfeit drug" means a drug, drug container, or
13 drug label which, without authorization bears the trademark,
14 trade name, or other identifying mark, imprint, or device or
15 any likeness thereof of a drug manufacturer, processor,
16 packer, or distributor other than the person who in fact
17 manufactured, processed, packed, or distributed the drug and
18 which falsely purports or is represented to be the product
19 of or to have been packed or distributed by the other drug
20 manufacturer, processor, packer, or distributor.

21 (13) "Demineralized water" means water that has been
22 demineralized by distillation, deionization, reverse
23 osmosis, or other methods and contains not more than 10
24 parts per million total solids.

25 (14) "Department" means the department of health and

1 environmental sciences provided for in Title 2, chapter 15,
2 part 21.

3 (15) "Device" (except when used in 50-31-107(2),
4 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and
5 50-31-501(10)) means instruments, apparatus, and
6 contrivances, including their components, parts, and
7 accessories, intended:

8 (a) for use in the diagnosis, cure, mitigation,
9 treatment, or prevention of disease in man or other animals;

10 (b) to affect the structure or function of the body of
11 man or other animals.

12 (16) "Distilled water" means purified water that has
13 been vaporized and condensed.

14 (17) "Drinking water" means water that has undergone
15 purification, distillation, demineralization,
16 mineralization, activated carbon or particulate filtration,
17 fluoridation, carbonation, or other similar process or has
18 undergone minimum treatment consisting of ozonization or an
19 acceptable disinfection process.

20 (18) "Drug" means:

21 (a) articles recognized in the official United States
22 Pharmacopoeia, official National Formulary, or a supplement
23 to either of these;

24 (b) articles intended for use in the diagnosis, cure,
25 mitigation, treatment, or prevention of disease in man or

1 other animals;

2 (c) articles (other than food) intended to affect the
3 structure or function of the body of man or other animals;

4 (d) articles intended for use as components of any
5 article specified in subsections (a), (b), or (c) but does
6 not include devices or their components, parts, or
7 accessories.

8 (19) "Federal act" means the Federal Food, Drug, and
9 Cosmetic Act, as amended (Title 21 U.S.C. 301, et seq.).

10 (20) "Fluoridated water" means water that contains,
11 naturally or by addition, fluoride ions in quantities of not
12 less than 0.7 and not more than 1.4 milligrams per liter and
13 complies with the food and drug administration quality
14 standards set forth in 21 CFR 103.35.

15 (21) "Food" means:

16 (a) articles used for food or drink for man or other
17 animals;

18 (b) chewing gum; and

19 (c) articles used for components of these articles.

20 (22) (a) "Food additive" means a substance, the intended
21 use of which results or may be reasonably expected to
22 result, directly or indirectly, in its becoming a component
23 or otherwise affecting the characteristics of food
24 (including a substance intended for use in producing,
25 manufacturing, packing, processing, preparing, treating,

1 packaging, transporting, or holding food and including a
 2 source of radiation intended for this use), if the substance
 3 is not generally recognized, among experts qualified by
 4 scientific training and experience to evaluate its safety,
 5 as having been adequately shown through scientific
 6 procedures (or, in the case of a substance used in a food
 7 prior to January 1, 1958, through either scientific
 8 procedures or experience based on common use in food) to be
 9 safe under the conditions of its intended use.

10 (b) This term does not include:

11 (i) a pesticide chemical in or on a raw agricultural
 12 commodity;

13 (ii) a pesticide chemical to the extent that it is
 14 intended for use or is used in the production, storage, or
 15 transportation of a raw agricultural commodity;

16 (iii) a color additive;

17 (iv) a substance used in accordance with a sanction or
 18 approval granted prior to the enactment of the Food
 19 Additives Amendment of 1958, pursuant to the federal act,
 20 the Poultry Products Inspection Act (21 U.S.C. 451, et
 21 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
 22 1260), as amended and extended (21 U.S.C. 71, et seq.).

23 (23) "Food service establishment" means a restaurant,
 24 catering vehicle, vending machine, delicatessen, fast-food
 25 retailer, or any other place that serves food to the public

1 for consumption either at or away from the point of service,
 2 and any facility operated by a governmental entity where
 3 food is served.

4 (24) "Hamburger" or "ground beef" means ground fresh or
 5 frozen beef or a combination of both fresh and frozen beef,
 6 with or without the addition of suet, to which no water,
 7 binders, or extenders are added. There are three ~~FOUR~~ grades
 8 of hamburger or ground beef:

9 (a) "economy regular hamburger" or "economy regular
 10 ground beef" may have:

11 (I) a fat lean FAT content no greater ~~less~~ GREATER than
 12 the federal standard set forth in 9 C.F.R. 319.15; AND

13 (II) A LEAN CONTENT OF NO LESS THAN 70%;

14 (b) "regular lean hamburger" or "regular lean ground
 15 beef" may have:

16 (I) a fat lean FAT content no greater ~~less~~ GREATER than
 17 ~~21%~~ 20% 22%; AND

18 (II) A LEAN CONTENT OF NO LESS THAN 78%;

19 (c) "extra lean hamburger" or "extra lean ground beef"
 20 may have:

21 (I) a fat lean FAT content no greater ~~less~~ GREATER than
 22 ~~18%~~ 15% 16%; AND

23 (II) A LEAN CONTENT OF NO LESS THAN 84%; AND

24 (D) "SUPER LEAN HAMBURGER" OR "SUPER LEAN GROUND BEEF"
 25 MAY HAVE:

1 (I) A FAT CONTENT NO GREATER THAN 12%; AND

2 (II) A LEAN CONTENT OF NO LESS THAN 88%.

3 (25) "Honey" means the nectar and saccharine exudations
4 of plants gathered, modified, and stored in the comb by
5 honey bees; is levorotatory, contains not more than 25% of
6 water, not more than .25% of ash, and not more than 8%
7 sucrose.

8 (26) "Label" means a display of written, printed, or
9 graphic matter on the immediate container of an article.

10 ("Immediate container" does not include package liners.)

11 (27) "Labeling" means labels and other written, printed,
12 or graphic matter:

13 (a) on an article or its containers or wrappers;

14 (b) accompanying the article.

15 (28) "Menu" means any list presented to the patron which
16 states the food items for sale in a food service
17 establishment.

18 (29) "Mineral water" means water that contains more than
19 500 parts per million total dissolved mineral solids.

20 (30) "New drug" means a drug, the composition of which
21 is such that:

22 (a) it is not generally recognized, among experts
23 qualified by scientific training and experience to evaluate
24 the safety and effectiveness of drugs, as safe and effective
25 for use under the conditions prescribed, recommended, or

1 suggested in its labeling; or

2 (b) the drug, as a result of investigations to
3 determine its safety and effectiveness for use under the
4 conditions prescribed, has become so recognized but which
5 has not, otherwise than in the investigations, been used to
6 a material extent or for a material time under the
7 conditions prescribed.

8 (31) "Official compendium" means the official United
9 States Pharmacopoeia, official National Formulary, or a
10 supplement to either of these.

11 (32) "Organic food" means food that conforms to the
12 definition in 50-31-222.

13 (33) "Package" means a container or wrapping in which a
14 consumer commodity is enclosed for use in the delivery or
15 display of that consumer commodity to retail purchasers but
16 does not include:

17 (a) shipping containers or wrappings used solely for
18 the transportation of a consumer commodity in bulk or in
19 quantity to manufacturers, packers, or processors or to
20 wholesale or retail distributors;

21 (b) shipping containers or outer wrappings used by
22 retailers to ship or deliver a commodity to retail customers
23 if the containers and wrappings bear no printed matter
24 pertaining to a particular commodity.

25 (34) "Person" includes an individual, partnership,

1 corporation, and association.

2 (35) "Pesticide chemical" means a substance which alone,
3 in chemical combination, or in formulation with one or more
4 other substances is an "economic poison" under the Federal
5 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., secs.
6 135-135k), as amended, and which is used in the production,
7 storage, or transportation of raw agricultural commodities.

8 (36) "Placard" means any nonpermanent sign used to
9 display or describe food items for sale in a food service
10 establishment or retail establishment.

11 (37) "Principal display panel" means that part of a
12 label that is most likely to be displayed, presented, shown,
13 or examined under normal and customary conditions of display
14 for retail sale.

15 (38) "Processing" means cooking, baking, heating,
16 drying, mixing, grinding, churning, separating, extracting,
17 cutting, freezing, or otherwise manufacturing a food or
18 changing the physical characteristics of a food, and the
19 enclosure of such food in a package.

20 (39) "Purified water" means water produced by
21 distillation, deionization, reverse osmosis, or other method
22 and that meets the definition of purified water in the 20th
23 edition of the pharmacopoeia of the United States of
24 America, 1980.

25 (40) "Raw agricultural commodity" means food in its raw

1 or natural state, including fruits that are washed, colored,
2 or otherwise treated in their unpeeled natural form prior to
3 marketing.

4 (41) "Retail establishment" means a commercial
5 establishment at which meat or meat products are displayed
6 for sale or provision to the public, with or without charge.

7 (42) "Spring water" means water that originates in an
8 underground formation and flows naturally, without external
9 force or vacuum, to a natural orifice in the surface of the
10 earth.

11 (43) "State board" or "board" means the board of health
12 and environmental sciences provided for in 2-15-2104.

13 (44) "Synthetically compounded" means a product
14 formulated by a process that chemically changes a material
15 or substance extracted from naturally occurring plant,
16 animal, or mineral sources, except for microbiological
17 processes.

18 (45) "Water-bottling plant" means any facility in which
19 bottled water is produced.

20 (46) "Well water" means water that:

21 (a) is taken from below the ground through a piping
22 device or similar installed device utilizing external force
23 or vacuum;

24 (b) is not modified in its mineral content; and

25 (c) may have undergone minimum treatment consisting of

1 ozonization or an acceptable disinfection process."

2 **Section 2.** Section 50-31-208, MCA, is amended to read:

3 **"50-31-208. Sale of hamburger and beef patty mix.** (1)

4 No food service establishment or retail establishment may
5 use the terms "hamburger", "burger", or other similar term
6 in any advertisement or menu to refer to any beef patty mix.

7 A food service establishment or retail establishment selling
8 or serving beef patty mix may refer to the product as "beef
9 patty mix" or by any other term which accurately informs the
10 customer of the nature of the food product which he is sold
11 or served.

12 (2) If beef patty mix is sold or served in a food
13 service establishment or retail establishment, a list of
14 ingredients must appear on the menu or label, or, if there
15 is no menu or label, on a placard as follows:

16 (a) The term "beef patty mix" or any other term which
17 accurately informs the customer of the nature of the food
18 product and its ingredients must be included.

19 (b) The ingredients must be listed in descending order
20 of predominance by weight.

21 (c) If there is no menu or label, the lettering on the
22 placard must be at least 1 inch in height (72-point letters)
23 in boldface and in colors that contrast with the placard.

24 (d) The placard must be posted in a permanent place,
25 conspicuous to the customer, in each room or area where food

1 is served or sold at retail.

2 (3) If hamburger or ground beef is sold in a retail
3 establishment, the grade, as defined in 50-31-103(24), and
4 the ~~maximum--fat~~ MAXIMUM FAT AND minimum lean content must
5 appear on each displayed package or, if the product is not
6 packaged for display, on a placard. If a placard is used, it
7 must satisfy the requirements of subsections (2)(c) and
8 (2)(d) of this section. The provisions of this subsection do
9 not apply to the service of prepared hamburger or ground
10 beef at a food service establishment."

11 NEW SECTION. **Section 3. Effective date.** [This act] is
12 effective on passage and approval.

-End-