

MINUTES OF THE MEETING OF THE HOUSE AGRICULTURE,  
LIVESTOCK AND IRRIGATION COMMITTEE, JANUARY 19, 1983

The meeting was called to order by Chairman Jacobsen on Wednesday, January 19, 1983 at 12:30pm in Room 129, State Capitol. All members of the Committee were present.

HEARINGS

HOUSE BILL 159. Rep. Orval Ellison, District 73, Park County, testified as sponsor of the bill, which would compensate for omission of an amendment pertaining to the two mill levy for rodent control, made during the 1981 legislation session. He said the old program did not allow mandatory control of the ground squirrel and other rodents, which are addressed in the bill and told the Committee a group of ranchers would be able to request rodent control for their district (exhibit).

PROPOSERS

MR. KEITH KELLY, Department of Agriculture, said the bill would clarify sections added last session, adding the most significant amendment is Section 7-22-2215 setting guidelines for formation of the rodent control board (exhibit). He told the Committee new sections of the bill as essentially the same as the old County Rodent Act, passed in 1975, which had been inadvertently repealed during the 1981 session. Mr. Kelly said most states use the term "vertebrate pests" rather than "rodents" referring to language in House Bill 85. He explained language on page 3 of the bill, referring to nuisance birds would be changed from "such as" to "limited to", to coincide with that in House Bill 85.

MR. KEN KNUTSON, Montana Wildlife Federation told the Committee he had concerns with pest control measures addressed by Mr. Kelly and commended Rep. Bertelsen's testimony on House Bill 85, adding he would be willing to work with any and all groups on rodent and weed control.

MR. PAT UNDERWOOD, Montana Farm Bureau, stated his support of the bill.

MR. R.L. ELLIS, Hellena Valley Irrigation District, stated his support of the bill.

MR. LOUIE VERO, Montana Rodent Damage Control Council, Missoula, told the Committee the 16 western counties he represented were in support of the bill.

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REP. BERTELSON commented the bill was necessary to update the rodent control program which began in 1975.

OPPONENTS

There were no opponents of the bill.

IN CLOSING, Rep. Ellison said the program would benefit all Montana farmers and ranchers and asked the Committee to correct the 1981 legislation.

QUESTIONS

REP. BENGTON asked how district boundaries were set. Rep. Ellison replied it was done by petition for a specific area. She then asked if costs were prorated among counties involved, to which Rep. Ellison responded, saying the district is supported by a two mill levy and the county is not taxed when the district is.

MR. GARY GINGERY, Department of Agriculture, told the Committee funding was optional and could be derived from the \$10,000 in the county general fund or by the two mill levy, adding the district and the Department would combine technical services.

REP. ROUSH requested information on costs, which Chairman Jacobsen advised would be supplied to committee members by January 21, 1983.

MR. GINGERY advised Park and Meagher Counties made a request to form a district but did not complete the application process and there are no districts in existence at this time.

REP. SPAETH questioned the language regarding rodent control and general information. Mr. Gingery told him language on the two subjects were inadvertantly mixed, confusing the two separate programs described in the bill, and cited Section 16, page 9, as an example.

REP. SPAETH asked if there were a rodent control district primarily directed at squirrels, which would be addressed by a given county and a vertebrate pest program, and an additional one for rabbits and other rodents which would be addressed by the rodent control district. Rep. Ellison replied the districts were limited to the first group.

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asked what the county vertebrate pest management fund would be limited to. Mr. Gingery replied it would be confined to pests named in Section 4 of the bill and said the bill was specifically created for formation of a rodent control program in specific areas of a given county in contrast to the general county program, which is permissive. Mr. Kelly commented there is no need to assess an entire county when the rodent problem is confined to a specific area.

The hearing was closed on House Bill 159.

HOUSE BILL 165. REP. RON MILLER, District 42, Cascade County, testified as sponsor of the bill, which he said would define public consumption of milk or cream to mean the use of milk or cream by the public for any purpose. He told the Committee some producers in Montana sell milk below set prices which has not been inspected nor licensed and said the bill would require such persons to meet and maintain state health standards.

PROPOSERS

DR. JAMES GLOSSER, Department of Livestock, said the bill would improve enforcement required by the Attorney General, in addition to assuring the general public of receiving a safe, wholesome product. He advised the Committee his staff would investigate consumer complaints and illnesses reported to a public health agency, adding it was not the intent of the bill to prohibit the exchange of milk within family groups or close neighbors. Dr. Glosser said in the opinion of the Attorney General of the State of Montana, a significant portion of livelihood derived from the sale of milk would constitute a dairy, however, a small operation of two or three milk cows would be permissible. He advised purchasers need informed options and that the U.S. Public Health Service does not recognize raw milk nor approve of its sale. He explained retail raw milk rules and statutes address this situation and requested favorable committee consideration of the bill.

MR. KEN KELLY, former administrator of the Milk Control Board told the Committee the problem was common during his tenure. As an example, he advised of a situation wherein an individual was warned to cease sale of raw milk and did not comply, resulting in a child contracting

Tuberculosis. He told the Committee the individual was sued, but the Board was powerless in the situation, because the sale was unlicensed and outside Board jurisdiction, adding consumers need to be protected from themselves via the regulation of raw milk sales.

MR. PAT UNDERWOOD, Montana Farm Bureau, stated his support of the bill.

REP. RAY LYBECK, District 16, Flathead County, told the Committee he strongly supports the bill as there have been two outbreaks of Brucellosis in his area recently.

#### OPPONENTS

There were no opponents of the bill.

IN CLOSING, Rep. Miller advised the Committee the sale of raw milk from untested cows must be stopped to prevent spreading of dangerous diseases.

#### QUESTIONS

REP. BENGSTON asked if a dairy could be licensed to sell raw milk, to which Rep. Miller replied it could for a license fee of \$5. Rep. Bengston then asked if there were any price controls on the sale of raw milk. Mr. Kelly replied once the dairy fee is paid, the dairyman must apply for a \$2 Milk Board license to qualify for in-farm retail prices. Rep. Bengston asked how difficult it was to obtain the \$2 license. Dr. Glosser replied licenses for retail raw dairies were strictly controlled for consistently good production, adding a retail raw product must meet the same standards as pasteurized milk products.

REP. ELLERD asked if raw milk dairies created a health problem. Dr. Glosser replied the federal government believes there is an increased risk of disease. Rep. Ellerd asked if the danger of disease arose from the sale of raw milk only or from the cattle themselves, to which Dr. Glosser responded, herds are examined annually for staph, salmonella, brucellosis, tuberculosis, viral hepatitis and up to 20 other diseases.

REP. BENGSTON asked how the milk could be harmful if the cattle were inspected. Dr. Glosser said milk for pasteurization has a higher allowance for organisms than does raw milk.

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REP. ROUSH asked what a fluid milk plant was. Dr. Glosser replied it produced milk for pasteurization. Rep. Roush asked if Hutterite colonies were required to have a license, to which Dr. Glosser replied they were and advised other legislation is pending which would raise the present license fee of \$5 to cover actual costs, as proposed by the office of the Legislative Auditor. He said on-sight inspections are completed two or three times annually and pesticide exams, eight times annually.


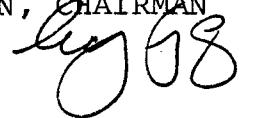
REP. ELLERD asked if other states outlawed the sale of raw milk, to which Dr. Glosser replied many states have. Rep. Ellerd then asked if there had been attempts to do so in Montana. Mr. Kelly replied several cities in the State have banned the sale of raw milk within city limits.

REP. BLISS asked Mr. Kelly if he were representing the nine raw milk dairies in the State. Mr. Kelly replied he only represented the Montana Dairymen's Association and Montana Dairy Processors.

The hearing was closed on House bill 165.

CHAIRMAN JACOBSEN advised executive action would be taken on House Bills 159, 165, and 85 on January 21, 1983.

The meeting was adjourned at 1:30pm.

  
REP. GLENN JACOBSEN, CHAIRMAN  


Joann T. Gibson, Secretary

Agriculture

NB 159

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FORM CS-33

# VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL

DATE \_\_\_\_\_

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME PAT Underwood BILL No. HB 159  
ADDRESS 502 S. 19 Bozeman, MT. DATE Jan 19, 83  
WHOM DO YOU REPRESENT MONTANA Farm Bureau  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

MTFBF SUPPORTS HB 159.

*Pat Underwood*

WITNESS STATEMENT

NAME PAT Underwood BILL No. HB 165  
ADDRESS 502 S. 19th BOZEMAN MT DATE JAN 19, 82  
WHOM DO YOU REPRESENT MONT. FARM BUREAU  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

MFBF SUPPORTS HB 165  
and the enforcement procedures  
contained in this Bill.

*Pat Underwood*

WITNESS STATEMENT

NAME F. M. Kelly BILL No. HB165  
ADDRESS Helena DATE 1/10/83  
WHOM DO YOU REPRESENT Montana Dairymen Assn.  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I worked as administrator of the Milk Control Division for some 25 years and the sale of ungraded and ungraded milk for human & animal consumption was one of my largest problems.

The Dept of Livestock needs this revision or amendment to protect the health and welfare of consumers.

F. M. Kelly

AMENDMENTS TO HOUSE BILL 159, (introduced copy)

1. Title, lines 4 through 10.

Following: "entitled: "An Act"

Strike: lines 4 through 10 in their entirety

Insert: "TO AUTHORIZE AND DIRECT THE COUNTY GOVERNING BODY

TO COOPERATE WITH THE DEPARTMENT OF LIVESTOCK AND OTHER  
STATE AND FEDERAL AGENCIES, COUNTIES, ASSOCIATIONS, COR-  
PORATIONS OR INDIVIDUALS IN THE MANAGEMENT AND SUPPRESSION OF  
VERTEBRATE PESTS; TO ESTABLISH FUNDING FOR THE ACT; TO  
PROVIDE AUTHORIZATION FOR NECESSARY EXPENDITURES; AND  
PROVIDING AN IMMEDIATE EFFECTIVE DATE; AMENDING SECTIONS  
7-22-2207, 7-22-2215 and 7-22-2216, MCA."

2. Pages 1 through 10.

Strike: all of the bill following the enacting clause

Insert: "Section 1. Section 7-22-2207, MCA, is amended  
to read:

"7-22-2207. Definitions. As used in this part, unless the  
context indicates otherwise, the following definitions apply:

(1) "Board" means the rodent control board for a district.

(2) "Department" means the department of livestock.

(3) "District" means a rodent control district created under  
the provisions of this part.

(4) "Fund" means the rodent control district fund author-  
ized by 7-22-2221.

(5) "Governing body" means the governing body specified in  
the alternative form of government adopted by a county.

(6) "Rodent" means Columbia ground squirrel (*Spermophilus  
columbianus*), Richardson ground squirrel (*Spermophilus  
richardsonii*), Aramatus ground squirrel (*Spermophilus  
aramatus*), thirteen-striped ground squirrel (*Spermophilus  
tridecemlineatus*), pocket gopher (*Thomomys*, various species),  
field mice (*Microtus*, various species), and prairie dog  
(*Cynomys ludovicianus*)."

Section 2. Section 7-22-2215, MCA, is amended to read:  
"7-22-2215. Rodent control board.

(1) (a) The governing body, upon the creation of a rodent  
control district, shall appoint a rodent control board  
composed of not less than three or more than five members.

(b) Each member of the board must be an elector within the  
boundaries of the district.

(c) Members of the board are public officers.

(d) The county extension agent in a county electing to create a rodent control district is an ex officio member of the board.

(2) Appointments to the board shall be for 3-year staggered terms.

(a) Initial appointments to rodent control board. Initially, at least one member of the rodent control board shall be appointed to serve a 1-year term, at least one member shall be appointed to serve a 2-year term, and at least one member shall be appointed to serve a 3-year term.

(3) Each member of the board is entitled to:

(a) a mileage allowance as provided in 2-18-503 for the distance actually and necessarily traveled to perform official duties; and

(b) per diem expenses as established by the governing body.

(4) Board members may receive no other compensation.

(5) The county weed board appointed under 7-22-2103 may be appointed by the governing body to also serve as the rodent control board, in which case the qualifications, terms, compensation, mileage, and expenses of the rodent control board are the same as those of the county weed board and subsections (1) through (4) do not apply."

Section 3. Section 7-22-2216, MCA, is amended to read:  
"7-22-2216. Board powers. The board may:

- (1) develop and administer a program for the abatement and alleviation of rodent pest conditions within the district;
- (2) employ such assistants and employees as are necessary;
- (3) purchase or lease such equipment, material, or services as are considered necessary for an effective control program;
- (4) sell or lease such equipment, material, or services to district landowners or residents as are considered necessary to implement the rodent abatement program;
- (5) cooperate with any corporation, association, group, individual, or state or federal agency in rodent abatement programs;
- (6) receive gifts or grants for the implementation of a rodent abatement program; and
- (7) enter district lands in order to survey and study conditions and to implement a rodent abatement program;
- (8) The board shall cooperate with the department in the management and suppression of rodent pests and may enter into written agreements."

NEW SECTION. Section 4. County to cooperate with others in the management of vertebrate pests. (1) The governing body shall cooperate with the department of livestock in the

management and suppression of vertebrate pests. Vertebrate pests are defined as jackrabbits, prairie dogs, ground squirrels, pocket gophers, rats, mice, skunks, raccoons, bats and predatory and nuisance birds limited to black-birds, cowbirds, starlings, house sparrows, and feral pigeons when they are injurious to agriculture, other industries, and the public. This cooperation shall be in accordance with organized and systematic plans of the department of livestock covering the methods and procedures to be followed in the management and suppression of these vertebrate pests. Management is the correct identification of a vertebrate pest; recognition of its biology and environmental needs; assessment of the pest's damage, injury or nuisance to agriculture, industry or the public prior to selecting and implementing any integrated or individual control methods to reduce, prevent or suppress these damages, nuisances, or injuries; and evaluating the effects of these control methods.

(2) The governing body, in cooperation with the department of livestock, may enter into cooperative agreements with state and federal governmental agencies, counties, associations, corporations, or individuals when cooperation is necessary to promote the management and suppression of vertebrate pests.

NEW SECTION. Section 5. Agreements with department of livestock. For the purpose of [Section 4], the governing body shall enter into written agreements with the department of livestock covering the methods and procedures to be followed in the management and suppression of vertebrate pests, the extent of supervision to be exercised by the governing body, and the use and expenditures of funds appropriated.

NEW SECTION. Section 6. County vertebrate pest management fund established. A county vertebrate pest management fund is hereby established. The fund shall be made permanently available and is hereby appropriated for expenditure by the governing body in the manner provided in [Section 8].

NEW SECTION. Section 7. Financing of vertebrate pest management program. (1) The governing body may:

- (a) appropriate from the county general fund not in excess of \$10,000 annually and transfer same to the county vertebrate pest management fund;
- (b) levy a tax of not to exceed 2 mills on the taxable valuation of all agricultural, horticultural, grazing, and timber lands and their improvements; or
- (c) both make such appropriation and levy such tax.

(2) The tax provided for in subsection (1) (b) shall be collected as other county taxes and credited to the county

vertebrate pest management fund.

(3) No person shall be taxed in any given year for rodent control under both 7-22-2222 and this section. A person within a rodent control district may be taxed under this section for control of other vertebrate pests.

NEW SECTION. Section 8. Expenditures for supplies and services authorized. In order to perform vertebrate pest management, the governing body may make necessary expenditures from the county vertebrate pest management fund for equipment, materials, supplies, and other expenses, including expenditures for personal services, as may be necessary to execute the functions imposed upon them [Sections 4 through 9].

NEW SECTION. Section 9. Acquisition and sale of vertebrate pest management supplies. (1) In addition to the expenditures authorized in [Section 8], the county governing body is authorized to:

(a) purchase vertebrate pest management supplies, including baits, for the use of cooperating governmental agencies, counties, rodent districts, associations, corporations, or individuals in the management of vertebrate pests; and

(b) make these supplies and baits available to such cooperators at approximate cost.

(2) The receipts from the sale of such supplies and baits shall be credited to the county vertebrate pest management fund.

NEW SECTION. Section 10. Coordination instruction. If House Bill no. 85, transferring vertebrate pest management responsibility from the department of livestock to the department of agriculture, is passed and approved, references to "the department of livestock" in this act are amended to read "department of agriculture".

NEW SECTION. Section 11. Codification instruction. Sections 4 through 9 are intended to be codified as an integral part of Title 7, chapter 22, and the provisions of Title 7, chapter 22 apply to sections 4 through 9.

NEW SECTION. Section 12. Effective date. This act is effective on passage and approval.

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## County Rodent Legislation

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The purpose of HB 159 is to clarify several sections of the rodent district act passed during the last legislature. The most significant amendment proposed is Section 7-22-2215 identifying how the rodent board should be formed. This amendment was actually proposed and passed in committee during the last legislature but was inadvertently left out of the final bill sent to the Senate. The basic thrust is to permit the county governing body to appoint a rodent control board which may or may not be the same as the weed control board. Existing legislation requires the weed board to serve as the rodent control board.

The NEW SECTIONS of HB 159 are essentially the same as the old county Rodent Act, passed in 1975, which was inadvertently repealed during the 1981 legislative session. A number of counties had operated rodent programs under this Act until they were cut off at the pockets after it was repealed during the 1981 session.

As with HB 85 there has been a suggested change from rodent pests to vertebrate pests. The reasons for this are as follows:

Most federal legislation and most of the surrounding states' legislation is written in terms of vertebrate pest species rather than rodent species. If the County is to enter into cooperative agreements with Federal agencies it would be much easier to do so on an equal and comparative basis.

Troublesome and nuisance pests such as jackrabbits, skunks, raccoons, bats and several bird species are not rodents and could not be covered under the rodent act. They are vertebrates, and they are pests in some areas of Montana, and can be included under the vertebrate pest designation as proposed in the bill.

Bats can be a nuisance and are known disease and rabies carriers. There are no pesticides available for use by the general public for bat control. The compound that is available is available to government personnel and PCO's only.

The bird species named are problems for producers in sunflower fields, barnyards and feed lots. Also, the past 2 years we have had problems with starlings eating leaf cutter bees in certified alfalfa seed fields. The control chemicals, once again, are available only to government agencies. The County, working through the Department, could provide assistance to the producers experiencing problems.

Starlings, house sparrows and pigeons can also be nuisances in and around public buildings in urban areas. The county could also provide assistance in this areas through this bill. In fact, we had a call from Anaconda on Monday about pigeon problems downtown.

There are a number of counties on the west side of the divide which consider the new sections of this bill critical if they are going to have a vertebrate pest program. Since they no longer have the statutory authority to appropriate funds their programs will be defunct, while the problem pests will continue to thrive on the producer's crops.

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165

the enforcement of this part, including rules for the processing, handling, and marketing of egg products whether shell, liquid, frozen, or dried.

History: En. Sec. 10, Ch. 189, L. 1931; re-en. Sec. 2634.10, R.C.M. 1935; amd. Sec. 4, Ch. 176, L. 1969; amd. Sec. 5, Ch. 310, L. 1974; R.C.M. 1947, 3-2310.

**81-20-208. Penalties.** Any person failing to comply with the provisions of this part or any rules adopted pursuant to this part is guilty of a misdemeanor and upon conviction for the first offense shall be punished by a fine of not less than \$25 or more than \$75. Upon conviction for the second or any subsequent violation of the foregoing provisions of this part the violator shall be fined not less than \$50 or more than \$200.

History: En. Sec. 11, Ch. 189, L. 1931; re-en. Sec. 2634.11, R.C.M. 1935; amd. Sec. 7, Ch. 151, L. 1939; amd. Sec. 4, Ch. 141, L. 1977; R.C.M. 1947, 3-2311.

**81-20-209. Revocation of license.** A license issued by the department of livestock under this part may be revoked by the department when the holder of the license fails to comply with the laws of this state which apply to the conduct of his business under the license. If a firm, person, or corporation whose license has been revoked by the department continues to buy, sell, or deal in eggs without a license, he is guilty of a misdemeanor and is subject to the penalties provided for in 81-20-208.

History: En. Sec. 10, Ch. 151, L. 1939; Sec. 2634.14, R.C.M. 1935; amd. Sec. 7, Ch. 310, L. 1974; R.C.M. 1947, 3-2314.

## CHAPTER 21

### DAIRY PRODUCTS

#### Part 1 — Regulation of Dairies Selling Milk or Cream for Public Consumption

##### Section

- 81-21-101. Milk plant defined.
- 81-21-102. Licensing of milk plants and dairies selling milk or cream for public consumption.
- 81-21-103. Exceptions of certain producers of dairy products.
- 81-21-104. Injunctive remedies.
- 81-21-105. Penalty.
- 81-21-106. Civil liability.

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#### Part 1

#### Regulation of Dairies Selling Milk or Cream for Public Consumption

**81-21-101. Milk plant defined.** A fluid milk plant is a place where milk or cream is not produced but is purchased or collected and prepared for distribution to the consumer in liquid form.

History: En. Sec. 23, Ch. 262, L. 1921; re-en. Sec. 3282, R.C.M. 1921; amd. Sec. 11, Ch. 35, L. 1923; amd. Sec. 1, Ch. 170, L. 1929; re-en. Sec. 3282, R.C.M. 1935; amd. Sec. 1, Ch. 382, L. 1973; amd. Sec. 76, Ch. 310, L. 1974; amd. Sec. 19, Ch. 12, L. 1977; R.C.M. 1947, 46-232(part).

**81-21-102. Licensing of milk plants and dairies selling milk or cream for public consumption.** (1) It is unlawful for the following businesses to operate in this state without first obtaining a license from the department of livestock:

- (a) a dairy selling milk or cream for public consumption in the form in which it is originally produced;
- (b) a condensed, evaporated, or powdered milk plant;
- (c) a fluid milk plant.

(2) A license expires on December 31 of the year issued. The department may, following the procedures in the Montana Administrative Procedure Act, deny, suspend, or revoke a license when it determines that a person to whom the license is issued has failed to comply with the rules of the department or has failed to conduct his establishment in a sanitary manner. All license fees collected shall be deposited into the general fund.

(3) The department may issue a restraining order prohibiting a dairy from selling or giving away milk or cream not produced or handled under the laws of this state or the rules of the department. It is unlawful for a dairy, while restrained, to sell or give away for public consumption milk or cream produced or handled by the dairy, and it is also unlawful for a dairy products manufacturing plant, milk plant, or cream station to purchase or use the cream or milk from a dairy while the dairy is restrained.

(4) The following license fees are charged for licenses issued under this section:

- (a) condensed, evaporated, or powdered milk factory, \$50;
- (b) fluid milk plant, \$50;
- (c) dairy, \$5.

(5) A person violating this section is guilty of a misdemeanor.

History: En. Sec. 23, Ch. 262, L. 1921; re-en. Sec. 3282, R.C.M. 1921; amd. Sec. 11, Ch. 35, L. 1923; amd. Sec. 1, Ch. 170, L. 1929; re-en. Sec. 3282, R.C.M. 1935; amd. Sec. 1, Ch. 382, L. 1973; amd. Sec. 76, Ch. 310, L. 1974; amd. Sec. 19, Ch. 12, L. 1977; R.C.M. 1947, 46-232(part).

**81-21-103. Exceptions of certain producers of dairy products.** The owners or operators of dairies, creameries, butter factories, cheese factories, or other places of business engaged in the production, storage, or transportation of dairy products are not required to procure a license from the department of health and environmental sciences, insofar as the business of production, storage, or transportation of these food products is concerned. This section does not limit the supervision or regulation of the sanitary condition of a restaurant, hotel, boardinghouse, or retail market or the products sold or offered for sale thereat by the department of health and environmental sciences, nor does this section limit the duties imposed by law on the department of health and environmental sciences to make sanitary rules for the eradication or control of an epidemic of human disease which may exist in a community.

History: En. Sec. 24, Ch. 262, L. 1921; re-en. Sec. 3283, R.C.M. 1921; re-en. Sec. 3283, R.C.M. 1935; amd. Sec. 77, Ch. 310, L. 1974; amd. Sec. 20, Ch. 12, L. 1977; R.C.M. 1947, 46-233(part).

**81-21-104. Injunctive remedies.** The department may apply for and the court may grant a temporary or permanent injunction restraining any person from violating the provisions of this chapter or rules adopted under 81-2-102, notwithstanding the existence of other remedies at law. When the

department of health and environmental sciences, insofar as the business, production, storage, or transportation of these food products is concerned. This section does not limit the supervision or regulation of the sanitary condition of a restaurant, hotel, boardinghouse, or retail market or the products sold or offered for sale thereat by the department of health and environmental sciences, nor does this section limit the duties imposed by law on the department of health and environmental sciences to make sanitary rules for the eradication or control of an epidemic of human disease which may exist in a community.

History: En. Sec. 24, Ch. 262, L. 1921; re-en. Sec. 3283, R.C.M. 1921; re-en. Sec. 3283, R.C.M. 1935; amd. Sec. 77, Ch. 310, L. 1974; amd. Sec. 20, Ch. 12, L. 1977; R.C.M. 1947, 46-233(part).

**81-21-104. Injunctive remedies.** The department may apply for and the court may grant a temporary or permanent injunction restraining any person from violating the provisions of this chapter or rules adopted under 81-2-102, notwithstanding the existence of other remedies at law. When the application of other remedies has been insufficient to compel action to control, extirpate, or prevent the spread of disease or upon a showing that an animal disease emergency exists and that other remedies probably would be insufficient to compel action to control the emergency, the department may apply for and the court may grant mandatory injunctive relief.

History: En. 46-210.1 by Sec. 1, Ch. 190, L. 1977; R.C.M. 1947, 46-210.1.

**81-21-105. Penalty.** Any person, persons, firm, or corporation violating any provision of this chapter, or the rule or order promulgated by authority of 81-2-102, shall be guilty of a misdemeanor. Violations of this chapter shall be tried without undue delay in any court of competent jurisdiction.

History: En. Sec. 29, Ch. 262, L. 1921; re-en. Sec. 3288, R.C.M. 1921; re-en. Sec. 3288, R.C.M. 1935; amd. Sec. 23, Ch. 12, L. 1977; R.C.M. 1947, 46-238.

**81-21-106. Civil liability.** A person, firm, or corporation which violates this part or rules or orders of the department is liable for damages sustained by a person because of the violation. The damages may be recovered by the person in a civil action in a court of competent jurisdiction.

History: En. Sec. 30, Ch. 262, L. 1921; re-en. Sec. 3289, R.C.M. 1921; re-en. Sec. 3289, R.C.M. 1935; amd. Sec. 81, Ch. 310, L. 1974; amd. Sec. 24, Ch. 12, L. 1977; R.C.M. 1947, 46-239.

## CHAPTER 22

### MANUFACTURED DAIRY PRODUCTS

#### Part 1 — Administration

##### Section

- 81-22-101. Definitions.
- 81-22-102. General authority of department.
- 81-22-103. New or amended rules — mailing — hearing — judicial review.
- 81-22-104. Enforcement of laws and rules — violation as misdemeanor.
- 81-22-105. Investigation of complaints and violations — injunction.
- 81-22-106. Names and addresses of producers furnished on request.
- 81-22-107. Use of inspections, tests, samples, etc., as evidence.
- 81-22-108. Antimonopoly statutes applicable.

EXCUSE

DATE 1-19-83

REPRESENTATIVE Glenn A. Roush

IS EXCUSED FROM COMMITTEE HEARING.

REP. GLENN JACOBSEN, CHAIRMAN  
AGRICULTURE COMMITTEE

PROXY VOTE

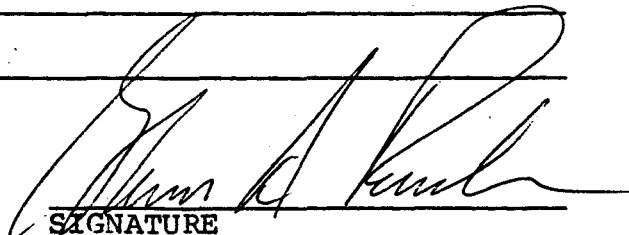
Date 1-19-83

REPRESENTATIVE Glenn A. Roush

BILL NO. HB 85, HB 145, HB 159

INSTRUCTIONS

VOTE yes on HB 85 AS AMENDED  
VOTE yes on HB 159 AS AMENDED  
VOTE yes on HB 145

  
SIGNATURE