

1 SENATE BILL NO. 14
 2 INTRODUCED BY GRAHAM
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
 5 REVISION AND CLARIFICATION OF THE LAWS RELATING TO
 6 LIVESTOCK."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 3-2404, R.C.M. 1947, is amended to
 10 read as follows:
 11 "3-2404. Definitions of terms. For the purpose of this
 12 act, the following definitions are adopted:
 13 (1) Butter is the clean, nonrancid product made by
 14 gathering the fat of fresh ripened milk or cream into a mass
 15 which also contains a small portion of the other milk
 16 constituents, with or without salt, and must contain not
 17 less than ~~eighty percent (80%)~~ of milk fat. No tolerance for
 18 deficiency in milk fat is permitted. Butter may also contain
 19 added coloring matter.
 20 (2) Renovated butter or ~~process~~ processed butter is
 21 the product made by melting and reworking, without the
 22 addition or use of chemicals or substances except whole
 23 milk, cream, or salt, and must contain not less than ~~eighty~~
 24 ~~percent (80%)~~ of milk fat.
 25 (3) Cheese is the sound, solid, and ripened product

1 made from milk or cream by coagulating the casein with
 2 rennet or lactic acid, with or without ripening ferments and
 3 seasoning, and must contain in the ~~water-free~~ water-free
 4 substance, not less than ~~fifty percent (50%)~~ of milk fat,
 5 and not more than ~~thirty-nine percent (39%)~~ of moisture.
 6 Cheese may also contain added coloring matter.
 7 (4) Skimmed milk cheese is the sound, solid, and
 8 ripened product made from skim milk by coagulating the
 9 casein with rennet or lactic acid, with or without ripening
 10 ferments and seasoning.
 11 (5) Ice cream is a frozen product made with pure,
 12 sweet milk, cream, skim milk, evaporated or condensed milk,
 13 evaporated or condensed skim milk, dry milk, dry skim milk,
 14 pure milk fat, ~~or~~ wholesome sweet butter, or any combination
 15 of these products, with or without sweetening, or clean
 16 wholesome eggs or egg products, with or without the use of
 17 harmless flavoring and coloring. Ice cream must contain not
 18 less than ~~ten percent (10%)~~ of milk fat, not less than
 19 ~~thirty-three percent (33%)~~ total solids, and may or may not
 20 contain pure and harmless edible stabilizer. Ice cream may
 21 contain not to exceed ~~one percent (1%)~~ gelatin. No frozen
 22 milk or milk product may be manufactured or sold unless it
 23 contains at least ~~ten percent (10%)~~ butterfat, excepting
 24 sherbets, ices, and other exceptions under this section. All
 25 ice cream must be manufactured from pasteurized ice cream

1 mix.

2 (6) Fruit ice cream shall conform to the requirements
3 of ice cream, except that the fruit ingredients must be from
4 sound, clean, and mature fruit, and it must contain not less
5 than ~~nine percent (9%)~~ of milk fat.

6 (7) French ice cream, French custard ice cream, cooked
7 ice cream, ice custard, parfaits, and similar frozen
8 products, except sherbets and water ices, are varieties of
9 ice cream.

10 (8) Ice cream mix is a pasteurized, unfrozen product
11 used in the manufacture of ice cream and must comply with
12 the requirements for ice cream.

13 (9) Milk sherbet is the pure, clean, frozen product
14 made from milk product, water, and sugar, with harmless
15 fruit or fruit juice flavoring and with or without harmless
16 coloring, which must contain not less than ~~0.35 of one~~
17 ~~percent (0.35%)~~ 35/100 of 1% of acid, as determined by
18 titrating with standard alkali and expressed as lactic acid,
19 and with or without added stabilizer composed of wholesome
20 edible material. It must contain not less than ~~four percent~~
21 ~~(4%)~~ by weight of solids.

22 (10) Ice or ice sherbet is the pure, clean, frozen
23 product made from water and sugar with harmless fruit or
24 fruit juice flavoring, ~~and~~ with or without harmless coloring
25 or added stabilizer composed of wholesome edible material,

1 and must ~~not~~ contain not less than ~~0.35 of one percent~~
2 ~~(0.35%)~~ 35/100 of 1% of acid, as determined by titrating
3 with standard alkali and expressed as lactic acid, ~~and with~~
4 ~~or without added stabilizer composed of wholesome edible~~
5 ~~material.~~ It ~~must~~ may contain no milk solids.

6 (11) A creamery is a place where ~~the~~ milk or cream
7 furnished by three ~~(3)~~ or more persons is used for ~~the~~
8 manufacture into butter for commercial purposes.

9 (12) A cheese factory is a place where milk furnished
10 by three ~~(3)~~ or more persons is made into cheese for
11 commercial purposes.

12 (13) An ice cream factory is a place where ice cream
13 mix is frozen into ice cream for commercial purposes.

14 (14) An ice cream mix factory is a place where ice
15 cream mix is made.

16 (15) A milk or cream buying or collecting station is a
17 place where milk or cream is bought or collected for
18 shipment or delivery to a creamery or to a person intending
19 to make use of it for commercial purposes.

20 (16) Person includes persons, whether natural or
21 artificial, including firms, ~~copartnerships~~ partnerships,
22 corporations, and marketing associations of every
23 description.

24 (17) The term "department", unless otherwise
25 indicated, means the department of livestock provided for in

1 Title 82A, chapter 13.

2 (18) It is unlawful for a person, firm, or
3 corporation, or its servant or agent, to manufacture, sell,
4 or expose, or offer for sale, or exchange butter or other
5 substance or commodity defined in this act containing less
6 butterfat or other ingredient than required by this act. A
7 violator is guilty of a misdemeanor and is punishable under
8 ~~section 3-2460~~ 3-24-137."

9 Section 2. Section 3-2489, R.C.M. 1947, is amended to
10 read as follows:

11 "3-2489. Promulgation of minimum standards for milk or
12 cream. The department may adopt minimum standards for milk
13 ~~and cream used for manufacturing purposes; its the~~
14 production, transportation, grading, testing, use,
15 processing, ~~and the~~ packaging, and storage of ~~manufactured~~
16 dairy products milk and cream used for manufacturing
17 purposes and of manufactured dairy products."

18 Section 3. Section 3-2496, R.C.M. 1947, is amended to
19 read as follows:

20 "3-2496. Investigation of complaints and violations —
21 injunction. The department shall provide for periodic
22 inspections and investigations to disclose violations of
23 this act or of rules adopted under this act. The department
24 shall receive and provide for the investigation of
25 complaints and request the institution and prosecution of

1 civil or criminal actions, or both. This act and the rules
2 adopted under it may be enforced by injunction in a court
3 having jurisdiction to grant injunctive relief. An
4 adulterated, impure, contaminated, misbranded, condemned, or
5 mislabeled article or product involved in a violation of
6 this act or of the rules adopted under this act is subject
7 to seizure and disposition under an order of the court."

8 Section 4. Section 3-2497, R.C.M. 1947, is amended to
9 read as follows:

10 "3-2497. Definitions. Unless the context requires
11 otherwise in this act the following definitions apply:

12 (1) "Department" means the department of livestock,
13 provided for in Title 82A, chapter 13.

14 (2) "Milk" and "cream" mean milk and cream sold, used,
15 or intended for manufacturing purposes or for conversion
16 into products of a form other than the form in which
17 originally produced or products commonly known as, but not
18 limited to:

- 19 (a) Butter_i
20 (b) Cheese, including cottage cheese, low-fat cottage
21 cheese, cheese curd, and cream cheese which are either
22 cultured or directly acidified, and cheese dressings_i
23 (c) Ice cream or its mix_i
24 (d) Frozen dessert or its mix_i
25 (e) ~~Sherbet~~ Sherbets of all kinds or their mixes_i

1 (f) Frozen ice cream bars, sandwiches, cones, and
 2 similar novelties;
 3 (g) Frozen desserts or products made in the semblance
 4 or imitation of frozen dessert;
 5 (h) Frozen confections or their mixes;
 6 (i) Water ices or their mixes;
 7 (j) Ice milk or its mix;
 8 (k) French ice cream, French custard, or their mixes;
 9 (l) Frozen custard or its mix and frozen yogurt;
 10 (m) Yogurt, flavored yogurt, and low-fat yogurt;
 11 (n) Sour cream--either cultured or directly
 12 acidified;
 13 (o) Cream cheese--either cultured or directly
 14 acidified;
 15 (p) Buttermilk--either cultured, from churned butter,
 16 or directly acidified;
 17 (q) Eggnog, low-fat eggnog, ~~eggnog--flavored~~
 18 eggnog-flavored milk, whipped cream, flavored toppings, and
 19 similar flavored products;
 20 (r) Dry or powdered milk; and
 21 (s) Condensed milk products.
 22 (3) The items specified in subsections (2) (a) through
 23 (2) (s) of this section, ~~(a) through (s)~~ shall conform to the
 24 standards of identity set forth in the Code of Federal
 25 Regulations. If standards of identity are not set forth in

1 the code, then the standards adopted by the department
 2 prevail. The labeling of manufactured dairy products shall
 3 be in accordance with the Montana Food, Drug, and Cosmetic
 4 Act.

5 (4) "Manufactured dairy product" means an item
 6 enumerated in subsection ~~(3)~~ (2) or any other dairy product
 7 made by incorporating milk or cream or converting milk or
 8 cream into a different state of appearance or quality.

9 (5) "Manufactured dairy products plant" or "factory"
 10 means a place where milk or cream is collected, and
 11 converted into a product, or into a different state of
 12 appearance or quality or which manufactures those products
 13 listed in subsection (2). If only products of semblance or
 14 imitation of dairy products are made, the plant is not
 15 considered as a manufactured dairy products plant.

16 (6) "Creamery" means a place where butter is made for
 17 commercial purposes.

18 (7) "Cheese factory" means a place where cheese
 19 including cream cheese, cottage cheese, creamed cottage
 20 cheese, cheese curd, cottage cheese dressing, and low-fat
 21 counterparts of cheese, either cultured or directly
 22 acidified, ~~are~~ is made for commercial purposes.

23 (8) "Frozen dessert plant" means a place where
 24 products named in ~~subsection~~ subsections (2) (c) through
 25 (2) (i) of this section are made for commercial purposes.

1 (9) "Cream station" means a place other than a
2 creamery where deliveries of milk or cream are weighed,
3 graded, sampled, tested, or collected for purchase.

4 (10) "Dairy" or "dairy farm" means a place where one
5 ~~(4)~~ or more cows or goats are kept, a part or all of the
6 milk or cream from which is used for manufacturing purposes.

7 (11) "Milk" means the lacteal secretion, practically
8 free from colostrum, obtained by the milking of one ~~(4)~~ or
9 more healthy cows located in modified accredited areas and
10 modified certified areas or from cows in herds fully
11 accredited as tuberculosis free by the United States
12 ~~Department~~ department of ~~Agriculture~~ agriculture or in the
13 process of being accredited when the milk or cream is sold
14 for use in, intended for use in, or used in a manufactured
15 dairy product.

16 (12) "Cream" means the milk fat which rises to the
17 surface when milk is allowed to stand, or which is separated
18 from milk by centrifugal force when sold, used, or intended
19 for use in a manufactured product.

20 (13) "Raw milk" or "raw milk products" means milk or
21 milk products which have not been treated by a process of
22 pasteurization.

23 (14) "Person" means an individual, firm, partnership,
24 corporation, ~~co-operative~~ cooperative, or other business
25 unit or trade device.

1 (15) "Pasteurization", "pasteurizing", and similar
2 terms mean the process of heating every particle of milk or
3 milk product to at least 145 degrees F., and holding it
4 continuously at or above this temperature for at least
5 ~~thirty~~ ~~(30)~~ minutes, or to at least 161 degrees F., and
6 holding it continuously at or above this temperature for at
7 least ~~fifteen~~ ~~(15)~~ seconds, in equipment which is properly
8 operated and approved by the department. Milk products that
9 have a higher fat content than milk or contain added
10 sweeteners shall be heated to at least 155 degrees F., and
11 held continuously at or above this temperature for at least
12 ~~thirty~~ ~~(30)~~ minutes, or to at least 175 degrees F., and held
13 continuously at or above this temperature for at least
14 ~~twenty-five~~ ~~(25)~~ seconds. This definition does not bar any
15 other pasteurization process which has been recognized by
16 the United States ~~Public Health Service~~ public health
17 service to be equally effective and which is approved by the
18 department.

19 (16) "Agent" means a person who is authorized by
20 another person to act for him in dealing with a third
21 person.

22 (17) "Grading" means the examination of milk, cream,
23 or products, by sight, odor, taste, or laboratory analysis,
24 the results of which determine a grade designating their
25 quality.

1 (18) "Testing," "test," "tested," and similar words
2 mean the examination of milk, cream, or manufactured dairy
3 products by sight, odor, taste, or biological or chemical
4 laboratory analysis to determine their quality,
5 wholesomeness, or composition.

6 (19) "Safe temperature" means 45 degrees F. or less,
7 unless the product is frozen, in which case the temperature
8 must be at or below 0 degrees F.

9 (20) "Producer" means the person who exercises control
10 over the production of milk or cream, delivered to a milk or
11 cream receiving station or manufactured dairy products
12 plant, or who receives payment for milk or cream used in
13 manufacturing.

14 (21) "Mix" includes the liquid, unfrozen product from
15 which those frozen products listed under subsection (2) (c)
16 through (2) (e) and (2) (g) through (2) ~~(e)~~ (f) are made.

17 (22) For purposes of reporting production, and
18 licensing, "manufactured dairy product" includes, but is not
19 limited to:

- 20 (a) Ice cream or its mix;
21 (b) French ice cream, custard ice cream, French
22 custard ice cream, their low-fat counterparts, or their
23 mixes;
24 (c) Sherbets of all kinds or their mixes;
25 (d) Animal or vegetable fat frozen desserts or their

1 mixes;

2 (e) Frozen confections or their mixes when made in a
3 manufactured dairy products plant;

4 (f) Water ices or their mixes;

5 (g) Frozen dessert sandwiches, bars, cones, and
6 similar novelties;

7 (h) Frozen dessert made of ~~non-dairy~~ nondairy origins,
8 and other products made in the semblance or imitation of
9 dairy products or their mixes when made in a manufactured
10 dairy products plant;

11 (i) Ice milk or its mix;

12 (j) Cheese of all kinds including cottage cheese,
13 cheese curd, cheese dressing, and cream cheese either
14 cultured or directly acidified;

15 (k) Sour cream when cultured or directly acidified;

16 (l) Eggnog, low-fat eggnog, ~~eggnog~~ eggnog ~~flavored~~
17 eggnog-flavored milk, and similar flavored products;

18 (m) Buttermilk, cultured, or from churned butter, or
19 directly acidified;

20 (n) Butter;

21 (o) Yogurt—low-fat yogurt, flavored yogurt, either
22 cultured or directly acidified, or frozen.

23 (23) "Official test" means test procedures outlined in
24 the sources referred to under section 3-2498 of concerning
25 samples, methods, and rules of evidence.

1 (24) "Water ice" means a frozen product containing
 2 but not limited to, the following ingredients: water, sugar,
 3 flavoring, coloring, stabilizers, and other ingredients
 4 allowed by the Code of Federal Regulations as optional
 5 ingredients.

6 (25) "C.I.P." means the procedure by which sanitary
 7 pipelines or pieces of dairy equipment are mechanically
 8 cleaned in place by circulation and when this procedure
 9 meets the 3-A accepted practices for permanently installed
 10 sanitary product-pipelines and cleaning systems.

11 (26) "Filled dairy products" means milk, cream, or
 12 skimmed milk, or any combination of these, whether or not
 13 condensed, evaporated, concentrated, frozen, powdered,
 14 dried, or desiccated, or any food product made or
 15 manufactured from them, to which has been added, or which
 16 has been blended or compounded with, fat or oil other than
 17 milk fat, so that the resulting product is in imitation or
 18 semblance of a dairy product, including milk, cream, sour
 19 cream, skimmed milk, ice cream, low-fat ice cream, whipped
 20 cream, flavored milk or skin milk yogurt, dried or powdered
 21 milk, cheese, cream, cream cheese, cottage cheese, creamed
 22 cottage cheese, ice cream mix, low-fat ice cream mix,
 23 sherbet, condensed milk, evaporated milk, or concentrated
 24 milk.

25 (27) "Intrastate commerce" means commerce within this

1 state under the jurisdiction of the state, and includes the
 2 operation of a business or service establishment.

3 (28) "Code of Federal Regulations" refers especially
 4 but is not limited to Title 21 which contains the
 5 definitions and standards of identity for products as
 6 established by the ~~Food Food~~ and ~~Drug-Administration drug~~
 7 administration, United States ~~Department~~ department of
 8 ~~Health, Education~~ health, education and ~~Welfare~~ welfare.

9 (29) "Culture" means the harmless lactic acid
 10 fermenting bacteria which are added to milk or cream to make
 11 manufactured dairy products like cultured buttermilk,
 12 cheese, cottage cheese, yogurt, sour cream, cream cheese,
 13 butter, and other similar products.

14 (30) "Direct acidification—" "directly acidified"
 15 and similar terms mean the process of adding a food grade
 16 acid to milk or cream instead of or in addition to the
 17 adding of culture.

18 (31) "Mislabeled," "unwholesome," "food additives,"
 19 "optional ingredients," "impure," "misbranded,"
 20 "contaminated," "adulterated," "perishable,"
 21 "hazardous," "unfit," "spoiled," "damaged," and similar
 22 terms, when applied to a manufactured dairy product or
 23 product made in semblance or in imitation of a manufactured
 24 dairy product, are as defined in ~~sections~~ 27-701 to through
 25 27-723."

1 Section 5. Section 3-2498, R.C.M. 1947, is amended to
2 read as follows:

3 "3-2498. Tests and analyses -- admissibility as
4 evidence. (1) The department may require a chemist,
5 biologist, microbiologist, serologist, or other qualified
6 employee of the department of health and environmental
7 sciences or other laboratory approved by the department, to
8 test or analyze samples of milk, cream, manufactured dairy
9 products, or products made in the semblance or imitation of
10 these products.

11 (2) Any appropriate test method listed in Standard
12 Methods for the Examination of Dairy Products, current
13 edition--American Public Health Association, Inc., ~~1740~~
14 ~~Broadway, New York, N.Y. 10019,~~ or Standard Methods for the
15 Examination of Water and Waste Water, current
16 edition--American Public Health Association, Inc., ~~1790~~
17 ~~Broadway, New York, N.Y. 10019,~~ or the methods in the
18 Official Methods of Analysis of the Association of Official
19 Analytical Chemists, current edition as published by the
20 Association of Official Analytical Chemists, ~~Box 540,~~
21 ~~Benjamin Franklin Station, Washington 4, D.C.,~~ or any other
22 appropriate tests approved by the department may be used,
23 and the results of these tests or analyses are admissible as
24 prima facie evidence of the facts disclosed, in a court,
25 hearing, or proceeding arising under this act, when

1 identified by the sample numbers and verified by the
2 department representative and analyst handling them. These
3 tests shall be designated and referred to as "official
4 tests."1"

5 Section 6. Section 3-24-122, R.C.M. 1947, is amended
6 to read as follows:

7 "3-24-122. Filled dairy products unlawful --
8 exceptions. [1] Filled dairy products resemble genuine dairy
9 products so closely that they lead themselves readily to
10 substitution for and confusion with such dairy products and
11 in many cases cannot be distinguished from genuine dairy
12 products by the ordinary consumer or ordinary laboratory
13 procedures. The manufacture, sale, exchange, purveying,
14 transportation, possession, or offering for sale or exchange
15 or purveyance of filled dairy products lends itself to
16 substitution, confusion, deception, and fraud, and ~~one which~~
17 if permitted, ~~to exist~~ tends to interfere with the orderly
18 and fair marketing of foods essential to the well-being of
19 the people of this state. It is hereby declared to be the
20 purpose of this act to:

21 (a) ~~to~~ correct, prevent, and eliminate the condition
22 above referred to;

23 (b) ~~to~~ protect the public from confusion, fraud, and
24 deception;

25 (c) ~~to~~ prohibit practices inimical to the general

1 welfare; and

2 ~~(d)~~ to promote the orderly and fair marketing of
3 essential foods.

4 ~~(1)(2) Therefore, it shall be~~ It is unlawful ~~in~~
5 ~~intrastate commerce~~

6 (a) for any person to manufacture, sell, exchange,
7 display, purvey, transport, or possess any filled dairy
8 product or to offer or expose for sale or exchange or to be
9 purveyed any such product in intrastate commerce;

10 ~~(2)(b) It shall be unlawful~~ for any person owning or
11 operating a bakery, confectionery shop, factory, or other
12 place where food products are prepared or manufactured for
13 sale, exchange, or purveyance to the public in intrastate
14 commerce to utilize any filled dairy product as an
15 ingredient in any food product so manufactured or prepared;

16 ~~(3)(c) It shall be unlawful in intrastate commerce~~ for
17 any person knowingly to sell, exchange, purvey, transport,
18 or possess any food product in intrastate commerce in which
19 any filled dairy product is an ingredient;

20 (3) ~~provided, however, that the~~ The term "filled dairy
21 product" ~~shall not be construed to~~ does not mean or include:

22 (a) ~~Oleomargarine~~ oleomargarine;

23 (b) ~~any~~ any distinctive proprietary food compound not
24 readily mistaken for a dairy product where such compound is
25 customarily used on the order of a physician and is prepared

1 and designed for medicinal or special dietary use and
2 prominently so labeled;

3 (c) ~~any~~ any frozen dessert containing animal fat
4 (other than butterfat) or vegetable fat when the container
5 is properly labeled;

6 (d) ~~any~~ any dairy product flavored with chocolate or
7 cocoa where the fats or oils other than milk fat contained
8 in such product do not exceed the amount of cacao fat
9 naturally present in the chocolate or cocoa used; or

10 (e) ~~any~~ any dairy product in which the vitamin content
11 has been increased and food oil utilized as a carrier of
12 such vitamins provided the quantity of such food oil does
13 not exceed ~~one one hundredths (1/100)~~ of ~~one per cent (1%)~~
14 of the weight of the finished dairy product."

15 Section 7. Section 3-24-127, R.C.M. 1947, is amended
16 to read as follows:

17 "3-24-127. Pasteurization apparatus and records.
18 (1) The department may adopt rules which it considers
19 necessary to assure proper control and use of all equipment
20 used in the process of pasteurization. The department may
21 require the operation of devices and apparatus which are
22 needed to accurately record and indicate temperatures to
23 which and the length of time for which the pasteurized
24 product has been heated, including those periods and
25 temperatures when the equipment is cleaned and sanitized by

1 C.I.P. method. A person using pasteurizing equipment in this
 2 state shall properly record and have available to the
 3 department for the preceding ~~two~~ (2) months all records
 4 pertaining to the pasteurization of any product. These
 5 records shall, at all times, be open to the inspection of
 6 the department, the department of health and environmental
 7 sciences, and all other state, county, and municipal
 8 officers charged with the enforcement of laws and ordinances
 9 respecting dairy products or the public health.

10 (2) Pasteurizing equipment which records temperatures
 11 or controls the time of holding shall be timed, set, and
 12 sealed by the department. The seals may not be removed or
 13 broken without first notifying the department."

14 Section 8. Section 3-24-138, R.C.M. 1947, is amended
 15 to read as follows:

16 "3-24-138. Deceit in grade, measure, or test of milk
 17 and cream unlawful. ~~A person, firm, or corporation selling~~
 18 ~~or delivering milk or cream, or receiving or purchasing milk~~
 19 ~~or cream by weight, grade or Babcock test, or either, or by~~
 20 ~~measure, grade or Babcock test, or either, may not with~~
 21 ~~intent to deceive or defraud as to the weight, grade,~~
 22 ~~measure or Babcock test thereof, manipulate, change or alter~~
 23 ~~the measure, Babcock test, grade or weight, or make or~~
 24 ~~return to a person a false or inaccurate statement of the~~
 25 ~~weight, grade, Babcock test or measure, or no person may use~~

1 a measure or grading or testing apparatus which does not
 2 comply with the standards of the department ~~or which has~~
 3 ~~been condemned as inaccurate or make any false or inaccurate~~
 4 statement or otherwise deceive or defraud a producer or
 5 other person concerning the weight, measure, butterfat
 6 content, or other component content of milk or cream."

7 Section 9. Section 46-208, R.C.M. 1947, is amended to
 8 read as follows:

9 "46-208. Powers of department. The department may:

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

1 (2) ~~Foster~~ foster, promote, and protect the livestock
 2 industry in this state by the investigation of diseases and
 3 other subjects related to ways and means of prevention,
 4 extirpation, and control of diseases, or to the care of
 5 livestock and its products, and to this end ~~to~~ may establish
 6 and maintain a laboratory, ~~and to~~ may make, or cause to be
 7 made, biologic products, curatives, and preventative
 8 agents, and ~~to do or~~ may perform any other acts and things
 9 as may be necessary or proper in the fostering, promotion,
 10 or protection of the livestock industry in this state;

11 (3) ~~Impose~~ impose and collect such fees as the
 12 department considers appropriate for the tests and services
 13 performed by the laboratory and for ~~such~~ biologic products,
 14 curatives, and preventative agents made or caused to be made
 15 by the department. In fixing ~~such~~ these fees the department
 16 shall take into consideration the costs, both direct and
 17 indirect, of ~~such~~ the tests, services, products, curatives,
 18 and agents. All fees shall be deposited in the earmarked
 19 revenue fund for the use of the animal health functions of
 20 the department.

21 (4) ~~Adopt~~ adopt rules and orders which it considers
 22 necessary or proper to prevent the introduction or spreading
 23 of infectious, contagious, communicable, or dangerous
 24 diseases affecting livestock in this state, and to this end
 25 may adopt rules and orders necessary or proper governing

1 inspections and tests of livestock intended for importation
 2 into this state, before it may be imported into this state;

3 (5) ~~Adopt~~ adopt rules and orders which it considers
 4 necessary or proper for the inspection, testing, and
 5 quarantine of all livestock imported into this state;

6 (6) ~~Adopt~~ adopt rules and orders which it considers
 7 necessary or proper for the supervision, inspection, and
 8 control of the standards and sanitary conditions of
 9 slaughterhouses, meat depots, meat and meat food products,
 10 dairies, milk depots, milk and its by-products, barns, dairy
 11 cows, factories, and other places and premises where meat,
 12 or meat foods, milk or its products, or any by-products
 13 thereof intended for sale or consumption as food are
 14 produced, kept, handled, or stored. ~~For the purposes of this~~
 15 ~~act—~~ An authorized representative of the department, may
 16 take samples of a product so produced, kept, handled, or
 17 stored, for analysis or testing by the ~~department's chemist,~~
 18 ~~bacteriologist, or the state chemist, and the department.~~
 19 The records of the samples and their analysis and test, when
 20 identified, as to the sample by the oath of the officer
 21 taking it, and verified, as to the analysis or test, by the
 22 oath of the chemist or bacteriologist making it, ~~is~~ are
 23 prima facie evidence of the facts set forth in ~~it,~~ them when
 24 offered in evidence in a prosecution or action at law or in
 25 equity for violation of this ~~act,~~ chapter or a rule or order

1 of the board adopted under this ~~act~~ chapter. These
 2 standards, ~~in so far as~~ insofar as they relate to dairies or
 3 milk and its by-products, may not include standards of
 4 weight or measurement.

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

12 (8) ~~Install~~ install an adequate system of meat
 13 inspection at any time and in such places as public welfare
 14 may demand under the rules which may provide fees for the
 15 maintenance of such inspection, and which shall provide ways
 16 and means for shipping home-grown and home-killed meats into
 17 any city in this state. As far as practicable, the rules
 18 shall conform with the meat-inspection requirements of the
 19 United States department of agriculture.

20 (9) ~~Slaughter~~ slaughter or cause to be slaughtered,
 21 any livestock in this state known to be affected with, or
 22 which has been exposed to, an infectious, contagious,
 23 communicable, or dangerous disease, when such slaughter is
 24 necessary for the protection of other livestock, and
 25 destroy, or cause to be destroyed, all barns, stables,

1 sheds, ~~out-buildings~~ outbuildings, fixtures, furniture, and
 2 or personal property infected with any such infectious,
 3 contagious, communicable, or dangerous disease, when they
 4 cannot be thoroughly cleaned and disinfected and the
 5 destruction is necessary to prevent the spreading of the
 6 disease;

7 (10) ~~Indemnify~~ indemnify the owner of any property
 8 destroyed by order of the department ~~under this act~~, or
 9 pursuant to any rules ~~or orders~~ adopted by the department
 10 under this ~~act~~ chapter;

11 (11) ~~Require~~ require persons, firms, and corporations
 12 engaged in the production or handling of meat, ~~or~~ meat food
 13 products, ~~or~~ dairy products, or any by-products thereof, to
 14 furnish statistics of the quantity and cost of the food and
 15 food products produced or handled, and the name and address
 16 of persons supplying them any of the products."

17 Section 10. Section 46-211, R.C.M. 1947, is amended to
 18 read as follows:

19 "46-211. Adoption of rules. The department shall adopt
 20 and enforce rules for the inspection and tuberculin test of
 21 dairy cattle, or other animals, and for the inspection,
 22 test, treatment, or disposition of livestock affected with,
 23 or which may have been exposed to, infectious, contagious,
 24 communicable, or dangerous disease, and for the quarantines
 25 provided for in this ~~act~~ chapter."

1 Section 11. Section 46-212, R.C.M. 1947, is amended to
2 read as follows:

3 "46-212. Establishment of livestock disease control
4 area — entry into area — compulsory inspection area, when.
5 (1) Upon receipt of a petition signed by not less than
6 ~~seventy-five per cent (75%)~~ of the livestock owners of the
7 species of animals to be inspected, tested, treated, or
8 vaccinated, and representing not less than ~~fifty per cent~~
9 ~~(50%)~~ of such species in any school district, as determined
10 from the permanent records of the board of county
11 commissioners describing school district boundaries, of any
12 county in the state of Montana, petitioning for the area
13 control, treatment, prevention, or eradication of any
14 dangerous disease of livestock within such school district,
15 the ~~Montana board of livestock is authorized and empowered~~
16 ~~to~~ may establish such school district as a disease control
17 area and ~~to~~ may enforce the inspection, test, treatment, or
18 vaccination of all livestock of the species designated
19 within such school district in accordance with the rules and
20 ~~regulations~~ promulgated by the ~~Montana~~ department of
21 ~~livestock~~ for the inspection, eradication, treatment, or
22 vaccination of such livestock and ~~to~~ may reimburse the
23 owners of livestock slaughtered by order of the ~~Montana~~
24 department of ~~livestock~~ or its authorized agent in
25 accordance with the laws of Montana governing the payment of

1 such animal or animals.

2 ~~(2) Provided that in~~ In any circumscribed disease
3 control area as established under this ~~act~~, section by the
4 ~~Montana department of livestock~~, no other livestock of the
5 species designated by the ~~Montana~~ department of ~~livestock~~ to
6 be inspected, tested, treated, or vaccinated, ~~shall~~ may
7 enter the disease control area unless inspected, tested,
8 treated, or vaccinated under the direction of the ~~Montana~~
9 department of ~~livestock~~ or ~~are~~ accompanied by a satisfactory
10 health certificate or except under special permit and
11 restrictions provided by the ~~Montana~~ department of
12 ~~livestock~~.

13 ~~(3) Provided further that when seventy-five per cent~~
14 ~~when (75%)~~ or more of the school districts in any county in
15 Montana are established under this ~~act~~ section by the
16 ~~Montana~~ department of ~~livestock~~ as disease control areas, it
17 becomes mandatory on the part of the remaining livestock
18 owners in such county to submit their livestock of one or
19 more species for inspection, test, treatment, or
20 vaccination, as directed by the ~~Montana~~ department of
21 ~~livestock~~."

22 Section 12. Section 46-217, R.C.M. 1947, is amended to
23 read as follows:

24 "46-217. Authority of municipal corporations. This ~~act~~
25 chapter does not prevent the governing authority of a

1 municipal corporation from enacting or enforcing ordinances
 2 for the inspection of slaughterhouses, meat depots, meat
 3 markets, meat food products, creameries, butter or cheese
 4 factories, dairies, ~~and~~ or dairy products, located, sold, or
 5 offered for sale in the limits of the municipal corporation.
 6 An ordinance may not be enforced in conflict with the powers
 7 of this ~~act~~ chapter delegated to the department, and its
 8 officers, or agents."

9 Section 13. Section 46-218, R.C.M. 1947, is amended to
 10 read as follows:

11 "46-218. Classification of animals as to compensation
 12 for slaughter. Animals, slaughtered under the direction of
 13 the department by order of the board, ~~under this act~~, are
 14 divided into two classes for the purposes of compensation:

15 (1) Animals determined by the department to be
 16 affected with an incurable disease, which are destroyed by
 17 order of the board, are designated as animals of class 1,
 18 and unless otherwise provided each of the animals shall be
 19 paid for on the basis of ~~seventy-five per cent (75%)~~ of its
 20 appraised value. The county in which the animal was owned at
 21 the time it was determined to be affected with an incurable
 22 disease, is liable in part, as later provided, for an
 23 indemnity to be paid for the animal. The ownership and
 24 county are determined by an affidavit of the owner of the
 25 animal or his agent. Each animal directed to be destroyed

1 shall be appraised by a representative or an authorized
 2 agent of the department with the owner agreeing in writing
 3 as to the value of the animal. When appraised, due
 4 consideration shall be given to its breeding value as well
 5 as its dairy or meat value and the condition of the animal
 6 as to the disease and the present and probable effect of the
 7 disease on the animal. In the absence of an agreement, there
 8 shall be appointed three ~~(2)~~ competent, disinterested
 9 parties, one appointed by the department, one by the owner,
 10 and a third by the first two, to appraise each animal,
 11 ~~taking into consideration its breeding value as well as its~~
 12 ~~dairy or meat value and the condition of the animal as to~~
 13 ~~the disease and the present probable effect of the disease~~
 14 ~~on the animal.~~ The judgment of the majority is the judgment
 15 of the appraisers and is binding on both parties as the
 16 final determination of indemnity to be paid for each animal.
 17 The total compensation of each group of appraisers is
 18 limited to ~~five dollars (\$5)~~ for the group appraisal,
 19 one-half ~~(1/2)~~ of which shall be paid by the department. The
 20 total amount of indemnity paid by the state and a county for
 21 an animal may not exceed the actual sound value of an animal
 22 of its class, and the total combined amount of indemnity
 23 paid for the animal by the state and a county may not exceed
 24 the sum of ~~one hundred dollars (\$100)~~ for a registered
 25 purebred animal or the sum of ~~fifty dollars (\$50)~~ for a

1 grade animal. Animals presented for appraisal as purebreds
2 shall be accompanied by their registration papers at the
3 time of appraisal or they shall be appraised as grades. If
4 purebreds are less than ~~three~~ (3) years old and not
5 registered, the department may grant a reasonable time for
6 their registration and presentation of their registration
7 papers to the appraiser. Registration papers shall accompany
8 the claim for indemnity.

9 (2) Animals of class 1 shall be paid for on the basis
10 of their full appraised value as determined in this section
11 if no evidence of incurable disease is disclosed by autopsy,
12 bacteriologic, serologic, microscopic, or other findings.
13 The total combined amount of indemnity paid by the state and
14 a county for an animal may not exceed the actual sound value
15 of an animal of its class. The total combined amount of
16 indemnity paid by the state and a county for the animal may
17 not exceed ~~one hundred dollars~~ {\$100} for a registered
18 purebred animal or ~~fifty dollars~~ {\$50} for a grade animal.

19 (3) Animals which are determined by the department to
20 be affected with or exposed to foot-and-mouth disease,
21 rinderpest, contagious pleura pneumonia, surra, or other
22 ~~infectious-contagious~~ infectious, contagious, communicable,
23 or dangerous disease, which is not of its nature necessarily
24 fatal, and are destroyed by order of the department as a
25 sanitary safeguard, are designated as animals of class 2 and

1 each animal shall be paid for on the basis of its full
2 appraised value. The appraised value shall be determined in
3 the manner set out in subsection (1) of this section. The
4 appraisal of the animals shall be based on the meat, dairy,
5 or breeding value of the animal, but where appraisal is
6 based on breeding value of the animal, no appraisal may
7 exceed three ~~(3)~~ times its meat or dairy value. The total
8 amount of indemnity paid by the state for an animal may not
9 exceed the actual sound value of an animal in its class,
10 ~~and no~~ No indemnity for a class 2 animal may be paid by a
11 county. In the case of destruction of an animal afflicted
12 with brucellosis (Bang's disease), no indemnity shall be
13 paid for the animal, unless the board, in its discretion,
14 determines the best interests of this state will be served
15 by payment of an indemnity. In this event, the board shall
16 set out standards of indemnity by rules, and may not pay in
17 excess of ~~one hundred dollars~~ {\$100} for a registered
18 purebred animal, or ~~fifty dollars~~ {\$50} for a grade animal.
19 In all cases where the federal government, or agency other
20 than the state, compensates the owner in whole or in part
21 for livestock destroyed as a sanitary safeguard, the amount
22 of compensation from the state shall be determined under
23 ~~section~~ 46-229.

24 (4) Animals which are injured or killed while they are
25 being inspected or tested under an order of the department

1 or its agent, ~~and if the animals~~ which do not come within
 2 either class 1 or class 2, may be paid for at their full
 3 appraised value, if the claim for the animal is recommended
 4 for payment at a meeting of the ~~department~~ board. Where it
 5 is shown that the injury or death of the animal was not
 6 proximately due to the negligence of the owner or his agent,
 7 the whole claim, when approved, shall be paid out of
 8 department funds. The limit of indemnity for an animal paid
 9 for by the state may not exceed that fixed by this ~~act~~
 10 section for animals of class 2."

11 Section 14. Section 46-220, R.C.M. 1947, is amended to
 12 read as follows:

13 "46-220. Indemnity — from what funds paid. In payment
 14 for animals or property destroyed by order of the
 15 department, the state shall pay one-half ~~(1/2)~~ of the
 16 indemnity out of the money at the disposal of the
 17 department. The county liable in part for the indemnity, ~~as~~
 18 ~~determined by this act,~~ shall pay one-half ~~(1/2)~~ of the
 19 total indemnity out of the general fund of the county."

20 Section 15. Section 46-224, R.C.M. 1947, is amended to
 21 read as follows:

22 "46-224. Examination and payment of claims. Claims
 23 against the state arising under this ~~act~~ chapter, if found
 24 correct, shall be processed and paid from funds of the
 25 department."

1 Section 16. Section 46-226, R.C.M. 1947, is amended to
 2 read as follows:

3 "46-226. Sale of condemned carcasses — disposal of
 4 proceeds. Where the carcass of an animal ordered destroyed
 5 under this ~~act~~ chapter is found, on official ~~post-mortem~~
 6 postmortem inspection, to be fit for human consumption, the
 7 owner shall receive the net proceeds from the sale of the
 8 carcass. The proceeds shall be deducted from his claim
 9 against the state and county for the slaughter. A
 10 representative of the department, may, when considered
 11 advisable or necessary or when it is desired by the owner,
 12 sell the carcass on terms he considers to be in the best
 13 interests of this state, and the net proceeds obtained from
 14 the sale shall be paid to the owner. This procedure does not
 15 invalidate the owner's claim for indemnity for any balance
 16 due him."

17 Section 17. Section 46-228, R.C.M. 1947, is amended to
 18 read as follows:

19 "46-228. Persons entitled to indemnity. [1] The owner
 20 of an animal or property destroyed under this ~~act~~, chapter
 21 is entitled to indemnity, except in the following cases:

22 ~~(1)(a)~~ (a) ~~animals~~ animals belonging to the United
 23 States;

24 ~~(2)(b)~~ (b) ~~animals~~ animals brought into this state which
 25 violate this ~~act~~, chapter or rules of the department;

1 ~~(3)(C)~~ animals animals which the owner or claimant
2 knew to be diseased, or had notice of the disease at the
3 time they came into his possession;

4 ~~(4)(d)~~ animals animals which had the disease for which
5 they were slaughtered, or which were destroyed because of
6 exposure to the disease, at the time of their arrival in
7 this state. However, as a class 2 animal of the second class
8 shipped into this state under department rules and
9 accompanied by the proper certificate of health from a
10 recognized state or federal veterinarian may be paid for
11 when payment is authorized by the department.

12 ~~(5)(e)~~ animals animals which have not been in this
13 state for at least ~~one hundred and twenty (120)~~ days before
14 the discovery of the disease; however, class 2 animals of
15 ~~the second class~~ which have not been in the state ~~one~~
16 ~~hundred and twenty (120)~~ days may be paid for when payment
17 is authorized by the department;

18 ~~(6)(f)~~ when when the owner or agent has not used
19 reasonable diligence to prevent disease or exposure to
20 disease;

21 ~~(7)(g)~~ when when the owner or agent has not complied
22 with the rules of the department with respect to animals
23 condemned;

24 ~~(8)~~ No compensation or indemnity will be paid for the
25 destruction of livestock affected with tuberculosis, or

1 ~~other infectious, contagious, communicable, or dangerous~~
2 ~~disease, unless the entire herd or band of affected~~
3 ~~livestock is under the supervision of the department for the~~
4 ~~eradication of the disease.~~

5 ~~(9)(h)~~ when when animals condemned are not destroyed
6 within ~~sixty (60)~~ days after they are determined to be
7 affected with or exposed to a disease which requires them to
8 be destroyed by order of the department.

9 (2) No compensation or indemnity will be paid for the
10 destruction of livestock affected with tuberculosis or other
11 infectious, contagious, communicable, or dangerous disease
12 unless the entire herd or band of affected livestock is
13 under the supervision of the department for the eradication
14 of the disease."

15 Section 18. Section 46-230, R.C.M. 1947, is amended to
16 read as follows:

17 "46-230. Expenses, how paid — lien and foreclosure.
18 The expense of inspecting, testing, supervision of
19 quarantine, supervision of dipping, supervision of
20 disinfection, and supervision of other treatment of
21 livestock by the department, ~~under this act,~~ and the
22 sanitary inspection of dairies, packing houses, meat depots,
23 slaughterhouses, milk depots, and other premises ~~under this~~
24 ~~act,~~ shall be paid for by the department. However, the owner
25 of the livestock or property is liable for all expenses,

1 except the salary of the supervising officer, representing
 2 the department, when the owner, agent, or person in charge
 3 of the livestock or property has violated the rules of the
 4 department. These expenses are a lien on the livestock or
 5 other property, and the department may retain possession of
 6 the livestock until the charges and expenses are paid. The
 7 lien is not dependent on possession, and ~~the lien~~ may be
 8 foreclosed in the name of the agent of the department by
 9 sale of the stock, or as many as may be necessary to pay the
 10 sum of the costs, ~~by sale~~ at public auction, after and ten
 11 ~~(10)~~ days' notice by posting in three ~~(2)~~ public places in
 12 the county. The lien may also be foreclosed by an action in
 13 a court of competent jurisdiction against the owner of the
 14 livestock to recover the amount of charges and expenses."

15 Section 19. Section 46-232, R.C.M. 1947, is amended to
 16 read as follows:

17 "46-232. Licensing of milk plants and dairies selling
 18 milk or cream for public consumption. (1) It is unlawful
 19 for the following businesses to operate in this state
 20 without first obtaining a license from the department of
 21 livestock:

22 (a) ~~a~~ a dairy selling milk or cream for public
 23 consumption in the form in which it is originally produced;

24 (b) ~~Condensed~~ a condensed, evaporated, or powdered
 25 milk plant;

1 (c) ~~Fluid~~ a fluid milk plant. A fluid milk plant is a
 2 place where milk or cream is not produced but is purchased
 3 or collected and prepared for distribution to the consumer
 4 in liquid form ~~but is not produced at this place.~~

5 (2) A license expires on December 31 of the year
 6 issued. The department may, following the procedures in the
 7 Montana Administrative Procedure Act [~~82-4201 to 82-4225~~],
 8 deny, suspend, or revoke a license when it determines that a
 9 person to whom the license is issued has failed to comply
 10 with the rules of the department or has failed to conduct
 11 his establishment in a sanitary manner. All license fees
 12 collected shall be deposited into the general fund.

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

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

24 (a) ~~Condensed~~ condensed, evaporated, or powdered milk
 25 factory, ~~fifty dollars (\$50)~~;

1 (b) ~~Fluid~~ fluid milk plant, ~~fifty-dollars-(\$50)-;~~

2 (c) ~~Dairy~~ dairy, ~~five-dollars-(\$5).~~

3 (5) ~~A~~ a person violating this ~~act~~ section is guilty of
4 a misdemeanor."

5 Section 20. Section 46-233, R.C.M. 1947, is amended to
6 read as follows:

7 "46-233. Exceptions of certain producers of meats and
8 dairy products. The owners or operators of slaughterhouses,
9 packing houses, meat depots, dairies, creameries, butter
10 factories, cheese factories, or other places of business
11 engaged in the production, storage, or transportation of
12 meats, meat foods, or dairy products, are not required to
13 procure a license from the department of health and
14 environmental sciences, ~~in so far~~ insofar as the business of
15 production, storage, or transportation of these food
16 products ~~are~~ is concerned. This ~~act~~ section does not limit
17 the supervision or regulation of the sanitary condition of a
18 restaurant, hotel, boardinghouse, or retail market, or the
19 products sold or offered for sale thereat, by the department
20 of health and environmental sciences, nor does this ~~act~~
21 section limit the duties imposed by law on the department of
22 health and environmental sciences to make sanitary rules for
23 the eradication or control of an epidemic of human disease
24 which may exist in a community."

25 Section 21. Section 46-234, R.C.M. 1947, is amended to

1 read as follows:

2 "46-234. ~~Co-operation~~ Cooperation by public officers.
3 ~~The state department of health and environmental sciences,~~
4 ~~the board of health and environmental sciences,~~ and local
5 boards of health of a county, city, or town, ~~or~~ village
6 shall cooperate with and assist the department of livestock
7 in matters which relate to the execution of its sanitary
8 powers regarding livestock and their food products under
9 this ~~act~~, chapter in the manner which the department of
10 livestock prescribes, either by general rule or direct
11 order."

12 Section 22. Section 46-235, R.C.M. 1947, is amended to
13 read as follows:

14 "46-235. Slaughterhouse license — fees and renewals.
15 It is unlawful for a person, firm, or corporation to
16 maintain or conduct a slaughterhouse, meat packing house, or
17 meat depot in this state without having a license issued by
18 the department. The annual fee for ~~a license~~ license issued
19 under this section is ~~one-dollar-(\$1)~~ and shall be paid into
20 the general fund. All licenses expire on December 31, of the
21 year in which they are issued, and shall be renewed by the
22 department on request of the licensee. However, when the
23 department finds that the place for which the license is
24 issued is not conducted in accordance with the rules and
25 orders of the board, made under ~~this act~~ 46-208, then the

1 department shall revoke the license and may not renew it
2 until the place is in a sanitary condition in accordance
3 with department rules."

4 Section 23. Section 46-230, R.C.M. 1947, is amended to
5 read as follows:

6 "46-238. Penalty for violation of ~~act~~. Any person,
7 persons, firm, or corporation violating any provision of
8 this ~~act~~ chapter, or the rule, ~~regulation~~, or order
9 promulgated by authority of same, shall be guilty of a
10 misdemeanor, ~~violations~~ Violations of this ~~act~~ chapter
11 shall be tried without undue delay in any court of competent
12 jurisdiction."

13 Section 24. Section 46-239, R.C.M. 1947, is amended to
14 read as follows:

15 "46-239. ~~Same~~ ~~civil~~ Civil liability. A person,
16 firm, or corporation who violates this ~~act~~ chapter or rules
17 or orders of the department is liable for damages sustained
18 by a person because of the violation. The damages may be
19 recovered by the person in a civil action in a court of
20 competent jurisdiction."

21 Section 25. Section 46-243, R.C.M. 1947, is amended to
22 read as follows:

23 "46-243. Personal liability ~~of~~ of members and officers
24 of department. No member of the department is personally
25 liable for damage resulting from his official acts or

1 decisions under this ~~act~~, chapter or a rule, or order
2 adopted under this ~~act~~ chapter, unless it is for his own
3 willful wrong or gross negligence."

4 Section 26. Section 46-248, R.C.M. 1947, is amended to
5 read as follows:

6 "46-248. Penalty for ~~violation of act~~. Any person
7 guilty of violating ~~this act shall be~~ 46-247 is guilty of a
8 misdemeanor and upon conviction ~~shall be~~ is punishable by a
9 fine not exceeding ~~five hundred dollars~~, \$500 or by
10 imprisonment in the county jail not exceeding ~~one~~ 1 year, or
11 by both fine and imprisonment."

12 Section 27. Section 46-605, R.C.M. 1947, is amended to
13 read as follows:

14 "46-605. Designation of years for ~~re-recording~~
15 rerecording brands. Each ~~year~~ 10th year after 1921 is the
16 year for ~~re-recording~~ rerecording artificial marks and
17 brands used to distinguish and identify the ownership of
18 domestic animals and livestock. The department shall, on the
19 application of a person, firm, or corporation, or the
20 transferee of the person, firm, or corporation, made in a
21 year which is a year for ~~re-recording~~ rerecording marks and
22 brands, ~~to re-record~~ rerecord a mark or brand which at the
23 time of the application stands of record in the department
24 in the name of the person, firm, or corporation. A mark or
25 brand which was not originally recorded or ~~re-recorded~~

1 rerecorded in the name of the person, firm, or corporation,
 2 during the ~~re-recording~~ rerecording year last preceding the
 3 date when the application is filed, or originally recorded
 4 in the name of the person, firm, or corporation, or his or
 5 its predecessor or predecessors in interest between the time
 6 of the application and the ~~re-recording~~ rerecording year
 7 last preceding the application, is not of record in the
 8 department."

9 Section 28. Section 46-808, R.C.M. 1947, is amended to
 10 read as follows:

11 "46-808. Removal of livestock from state without
 12 inspection — penalty — exception. Any person, other than
 13 the owner, or his agent or employee, who, without consent of
 14 the owner, removes or causes to be removed from this state
 15 any cow, ox, bull, stag, calf, steer, heifer, horse, mule,
 16 mare, colt, foal, or filly, without having the same
 17 inspected where such inspection is required by law ~~shall be~~
 18 is guilty of a felony and shall be punished by a fine of not
 19 more than ~~two thousand dollars (\$2,000.00)~~, or by
 20 imprisonment in the state prison for a term of not more than
 21 ~~three (3) years~~, or by both such fine and imprisonment
 22 ~~provided, however, that the~~. The provisions of this section
 23 shall do not apply to any person who removes from this state
 24 any animal specified by this section, for the purpose of
 25 obtaining emergency treatment for such animal by a licensed

1 veterinarian, ~~excluded from this act.~~"

2 Section 29. Section 46-903, R.C.M. 1947, is amended to
 3 read as follows:

4 "46-903. Quarantine of diseased animals — ownership
 5 of animals to be determined — proceeds from sale of stock
 6 of unknown owner. If the livestock inspector at a sale ~~find~~
 7 finds any livestock afflicted with an infectious or
 8 contagious disease, he shall immediately take possession of
 9 the livestock and place them in quarantine, to be disposed
 10 of as directed by the department. If there is any question
 11 respecting the ownership of livestock sold, the livestock
 12 inspector may take possession of the livestock. The
 13 livestock inspector shall notify the person in charge of the
 14 market and conducting the sales, and the person who has
 15 purchased the livestock at the sale, within a reasonable
 16 time. Where livestock is sold, the ownership of which is
 17 not known or cannot be determined by the livestock
 18 inspector, they may be sold as strays, and the net proceeds
 19 derived from the sale shall be ~~sent to the department to be~~
 20 ~~held and kept, together with a complete description of the~~
 21 ~~livestock and the brands of the livestock. The money shall~~
 22 ~~be held and retained by the department for the use and~~
 23 ~~benefit of the owner of the livestock and paid to the owner~~
 24 ~~when ownership has been satisfactorily determined~~ handled in
 25 the same manner as provided in 46-918. If the proceeds of

1 the sale sent to the department are not claimed by the
 2 lawful owner of the livestock within ~~two~~(2) years from the
 3 date of the receipt of the proceeds, the money shall ~~be held~~
 4 ~~and disposed as provided in section 46-904~~ become state
 5 property and be placed to the credit of the earmarked
 6 revenue fund for the use of the department."

7 Section 30. Section 46-906, R.C.M. 1947, is amended to
 8 read as follows:

9 "46-906. Definitions. Unless the context requires
 10 otharwise, in this ~~act~~ chapter:

11 (1) "~~Livestock~~ livestock" means and includes horses,
 12 mules, cattle, swine, sheep, and goats;

13 (2) "~~Person~~ person" means a person, ~~copartnership~~
 14 partnership, association, or corporation;

15 (3) "~~Board~~ board" means the board of livestock
 16 provided for in ~~section~~ 82A-1303;

17 (4) "~~Certificate~~ certificate" means the certificate of
 18 public convenience and necessity authorized to be issued
 19 under this ~~act~~ chapter;

20 (5) "~~Commission~~ commission basis" means the
 21 compensation or charge imposed on the owner of livestock for
 22 the services rendered the owner by the operator of the
 23 livestock market;

24 (6) "~~Livestock~~ livestock market" means a place where a
 25 person assembles livestock for either private or public sale

1 by him and the service is compensated for by the owner, on a
 2 commission basis or otherwise, except:

3 (a) ~~A~~ a place used solely for a dispersal sale of the
 4 livestock of a farmer, dairyman, livestock breeder, or
 5 feeder who is discontinuing business and no other livestock
 6 is sold there or offered for sale;

7 (b) ~~A~~ a farm, ranch, or place where livestock either
 8 raised or kept thereon for the grazing season or for
 9 fattening is sold, and no other livestock is brought there
 10 for sale or offered for sale;

11 (c) ~~The~~ the premises of a butcher, packer, or processor
 12 who ~~received~~ receives animals exclusively for immediate
 13 slaughter;

14 (d) ~~The~~ the premises of a person engaged in the raising
 15 of livestock for breeding purposes only, who limits his sale
 16 to livestock of his own production;

17 (e) ~~A~~ a place where a breeder or an association of
 18 breeders of livestock of any class assemble and offer for
 19 sale and sell under his or their own management any
 20 livestock, when the breeder or association of breeders
 21 assumes all responsibility for the sale and the title of
 22 livestock sold;

23 (7) "~~Off-premise~~ off-premises sale" means the sale of
 24 livestock by a livestock market ~~licensed~~ for which a
 25 certificate has been issued under this chapter at a place

1 other than the one at which the ~~licensee~~ livestock market
2 conducts ~~his~~ its usual livestock market operation;

3 (8) "~~Test~~ test station sale" means the sale of
4 livestock from a place where livestock ~~are~~ is taken to
5 measure rates of gain under uniform feeding conditions, when
6 that place is not owned by the owner of the livestock."

7 Section 31. Section 46-906.1, R.C.M. 1947, is amended
8 to read as follows:

9 "46-906.1. Board regulation of certain types of
10 nonmarket sales of livestock. (1) ~~Any~~ Each person, not a
11 livestock market operator ~~licensed~~ authorized under this
12 chapter, conducting the sale of livestock in a breed sale,
13 ~~or~~ a breed association sale, or at a test station sale,
14 except when all of the livestock are his and are being sold
15 from his own place, shall obtain approval from the board
16 before conducting the sale.

17 (2) The board, as conditions to granting approval, may
18 require:

19 (a) the names and addresses of those conducting the
20 sale;

21 (b) the date, time, and place where the sale will be
22 conducted;

23 (c) a detailed statement of the assets and liabilities
24 of the persons conducting the sale;

25 (d) the establishment of a custodial account into

1 which all moneys received as purchase for the sale of
2 livestock must be deposited;

3 (e) the posting of reasonable bond, in an amount
4 determined by the board;

5 (f) the commissions or charges proposed to be imposed
6 on the owners of livestock for services rendered to them
7 associated with the sale;

8 (g) a guarantee to pay all consignors in full within a
9 reasonable time as set by the board;

10 (h) such other information as the board considers
11 necessary."

12 Section 32. Section 46-907, R.C.M. 1947, is amended to
13 read as follows:

14 "46-907. Regulation of livestock markets. The board
15 shall:

16 (1) ~~Supervise~~ supervise and regulate livestock markets
17 in this state;

18 (2) regulate the properties, facilities, operations,
19 services, and practices of all livestock markets;

20 (3) supervise and regulate livestock markets in all
21 matters affecting the relationship between the operators and
22 owners of livestock, and between the operators and
23 purchasers of livestock, at the markets;

24 (4) prescribe by general order, or otherwise, rules in
25 conformity with this ~~act~~ chapter applicable to all livestock

1 markets, and not in conflict with the laws of the United
2 States or ~~sales and~~ regulations of the United States
3 department of agriculture or other federal agencies."

4 Section 33. Section 46-907.1, R.C.M. 1947, is amended
5 to read as follows:

6 "46-907.1. Occasional ~~off-premise~~ off-premises sales
7 may be authorized. (1) The board may authorize occasional
8 ~~off-premise~~ off-premises sales by ~~licensed~~ authorized
9 livestock markets and may establish the conditions under
10 which approval for an ~~off-premise~~ off-premises sale may be
11 granted, including any change in bonding requirements the
12 board considers necessary.

13 (2) No livestock market ~~licensed for which a~~
14 certificate has been issued under this chapter may conduct
15 an ~~off-premise~~ off-premises sale without obtaining prior
16 approval of the board."

17 Section 34. Section 46-908, R.C.M. 1947, is amended to
18 read as follows:

19 "46-908. Certificate to operate livestock market
20 required — application, contents of — fee. (1) A person
21 may not operate a livestock market in this state without
22 first obtaining from the board, under this ~~act~~ chapter, a
23 certificate declaring that public convenience and necessity
24 require the operation. A person making application for a
25 certificate shall do so in writing, verified by the

1 applicant, and specifying the following:

2 ~~(1)(a)~~ (1)(a) The the name and address of the applicant, and
3 the names and addresses of its officers, if any;

4 ~~(2)(b)~~ (2)(b) The the place where the applicant proposes to
5 operate a livestock market;

6 ~~(3)(c)~~ (3)(c) A a complete and detailed description of the
7 property and facilities proposed to be used in connection
8 with the livestock market;

9 ~~(4)(d)~~ (4)(d) The the commissions or charges applicant
10 proposes to impose on the owners of livestock for services
11 rendered to them by applicant in the operation of the
12 livestock market;

13 ~~(5)(e)~~ (5)(e) A a detailed statement showing the assets and
14 liabilities of the applicant;

15 ~~(6)(f)~~ (6)(f) The the location of other livestock markets
16 within a radius of ~~two-hundred~~ (200) miles of the proposed
17 livestock market, and the names and addresses of the
18 operators thereof;

19 ~~(7)(g)~~ (7)(g) A a detailed statement of the facts upon which
20 the applicant relies showing public convenience and
21 necessity for the livestock market, including the
22 anticipated revenue from inspection fees that may be derived
23 therefrom by ~~this~~ the state;

24 ~~(8)(h)~~ (8)(h) ~~any~~ any additional information the board may
25 require.

1 ~~(9)~~ (2) The application shall be accompanied by a fee
2 of ~~one hundred dollars~~ (\$100), which shall also be
3 considered the first annual fee if the application is
4 granted; however, the annual fee shall be paid on the
5 following May 1 and each year thereafter, as provided
6 herein."

7 Section 35. Section 46-910, R.C.M. 1947, is amended to
8 read as follows:

9 "46-910. Livestock markets licensed — grounds of
10 discontinuance. If after a hearing in the manner provided in
11 this ~~act~~ chapter it appears to the board that a livestock
12 market licensed for which a certificate has been issued
13 under this ~~act~~ chapter has, for a period of ~~two~~ (2)
14 successive years, failed to provide the minimum revenue to
15 the state as provided in this ~~act~~ chapter, the livestock
16 market may be discontinued by order of the board."

17 Section 36. Section 46-911, R.C.M. 1947, is amended to
18 read as follows:

19 "46-911. ~~License fee~~ Fee. A person operating a
20 livestock market in this state shall pay on May 1, annually,
21 a license fee of ~~one hundred dollars~~ (\$100) to the board.
22 All fees under this ~~act~~ chapter shall be paid into the state
23 treasury, and placed by the state treasurer to the credit of
24 the earmarked revenue fund for the use of the board."

25 Section 37. Section 46-912, R.C.M. 1947, is amended to

1 read as follows:

2 "46-912. Bond required — conditions. (1) Every person
3 operating a livestock market in this state shall provide a
4 bond in favor of this state, upon a form and with surety to
5 be approved by the board, in the minimum penal sum of ~~ten~~
6 ~~thousand dollars~~ (\$10,000) or such greater sum as the board
7 may determine, conditioned upon:

8 ~~(1)~~ (a) the payment immediately upon the sale of the
9 livestock of all money received, less reasonable expenses
10 and commissions, by the ~~licensee and operator of the~~
11 livestock market to the rightful owner of livestock so
12 consigned and delivered to ~~the licensee~~ it for sale;

13 ~~(2)~~ (b) the payment of the minimum fees as provided by
14 ~~section~~ 46-909; and,

15 ~~(3)~~ (c) a full compliance with this ~~act~~ chapter,
16 including all rules adopted under this ~~act~~ chapter.

17 (2) When approved the bond shall be filed with the
18 board.

19 (3) Actions of law may be brought in the name of the
20 state upon the bond for the use and benefit of a person who
21 suffers loss or damage from violations thereof, and may be
22 brought by the person suffering loss or damage in the county
23 of his residence."

24 Section 38. Section 46-913, R.C.M. 1947, is amended to
25 read as follows:

1 "46-913. Records kept by licensees livestock markets.
 2 Each licensee livestock market shall keep accounts, records,
 3 and memoranda, and shall make reports, which the board
 4 requires, and the board and its authorized agents and
 5 employees shall at all times have access to the accounts,
 6 records, and memoranda for inspection and examination."

7 Section 39. Section 46-915, R.C.M. 1947, is amended to
 8 read as follows:

9 "46-915. Cancellation or suspension of certificates —
 10 grounds. ~~Finding by the board that a licensee~~ The board may
 11 ~~cancel or suspend the certificate of an operator of a~~
 12 livestock market if it finds that the operator has:

13 ~~(a)(1)~~ (1) has been guilty of fraud or misrepresentation
 14 as to the titles, charges, number, brands, weights, proceeds
 15 of sale, or ownership of livestock;

16 ~~(b)(2)~~ (2) has violated any of the provisions of this act
 17 chapter;

18 ~~(c)(3)~~ (3) has violated any of the rules adopted and
 19 published by the board;

20 ~~(d)(4)~~ (4) has violated ~~sections~~ 46-801 through 46-806;
 21 or,

22 ~~(e)(5)~~ (5) has violated any of the conditions of the bond,
 23 as provided by this act chapter, ~~is sufficient cause for the~~
 24 ~~cancellation or suspension of the certificate of the~~
 25 ~~offending operator of the livestock market."~~

1 Section 40. Section 46-916, R.C.M. 1947, is amended to
 2 read as follows:

3 "46-916. Investigation of actions of licensees
 4 livestock markets — hearing of complaints — additional
 5 powers and duties of members of board or agents —
 6 witnesses. (1) ~~The~~ When considered necessary, the board or
 7 any member or agent of the board, may upon a motion, or upon
 8 a verified complaint in writing ~~of a person, when considered~~
 9 ~~necessary,~~ may investigate the actions of a licensee,
 10 livestock market and, if found proper to do so, shall file a
 11 complaint against the licensee livestock market with the
 12 board. The complaint shall be set for hearing before the
 13 board upon ~~ten~~ (10) days' notice served upon the licensee
 14 livestock market.

15 (2) Any investigation, inquiry, or hearing which the
 16 board may undertake or hold, under this act, chapter may be
 17 undertaken or held by or before any board member or by or
 18 before any agent or examiner of the board designated for
 19 that purpose by the board. A finding, order, or decision
 20 made by a board member or agent or examiner of the board so
 21 designated, pursuant to the investigation, inquiry, or
 22 hearing, when approved and confirmed by the board and
 23 ordered filed in its office, is considered the finding,
 24 order, or decision of the board. An agent or examiner of the
 25 board may administer oaths, examine witnesses, and receive

1 evidence."

2 Section 41. Section 46-917, R.C.M. 1947, is amended to
3 read as follows:

4 "46-917. Appeal by licensee livestock market or
5 applicant for certificate — bond — procedure. An appeal of
6 a decision of the board for refusing to grant an application
7 for a certificate or suspending or revoking a certificate of
8 a licensee livestock market shall be taken to the district
9 court of the county in which the proposed livestock market
10 is to be located or in which the licensee authorized
11 livestock market has ~~his~~ its principal place of business.
12 The appellant shall file a bond with the clerk of the
13 district court in the sum of ~~three hundred dollars~~ (\$300) to
14 be approved by the judge of the court, conditioned to pay
15 all costs that may be awarded against the appellant in the
16 event of an adverse decision or the decision of the board
17 being affirmed. The cost of preparing transcripts shall be
18 paid by appellant. In case of suspension or revocation of a
19 certificate, the filing of the notice and bond shall stay
20 the order of the board until the final determination of the
21 appeal. If the appellant fails to perfect ~~his~~ the appeal the
22 stay shall automatically terminate."

23 Section 42. Section 46-920, R.C.M. 1947, is amended to
24 read as follows:

25 "46-920. Penalties ~~for violating act~~. A person who

1 violates any provisions of this ~~act~~ chapter or rules adopted
2 by the board under this ~~act~~, chapter is guilty of a
3 misdemeanor and upon conviction shall be fined not less than
4 ~~one hundred dollars~~ (\$100) ~~or~~ or more than ~~six hundred~~
5 ~~dollars~~ (\$600), ~~or~~ imprisoned in the county jail not less
6 than ~~thirty~~ (30) days ~~or~~ or more than ~~six~~ (6) months, or
7 both fined and imprisoned. A person who has been convicted
8 of a violation of this ~~act~~ chapter and who subsequently is
9 found guilty of ~~a~~ another violation of this ~~act~~ chapter
10 shall be fined not less than ~~two hundred dollars~~ (\$200) ~~or~~
11 or more than ~~one thousand dollars~~ (\$1,000), ~~or~~ imprisoned in
12 the county jail for not less than ~~three~~ (3) months ~~or~~ or
13 more than ~~six~~ (6) months, or both fined and imprisoned. A
14 second conviction requires the board to suspend or cancel
15 the certificate of the person without a hearing, and the
16 person may not again be granted a certificate for a period
17 of ~~one~~ (1) year."

18 Section 43. Section 46-921, R.C.M. 1947, is amended to
19 read as follows:

20 "46-921. Jurisdiction of district courts. The district
21 courts shall have original jurisdiction in all criminal
22 actions for violations of the provisions of this ~~act~~
23 chapter."

24 Section 44. Section 46-1011, R.C.M. 1947, is amended
25 to read as follows:

1 "46-1011. Powers and duties of inspectors outside of
 2 state. (1) The stock inspector appointed to inspect Montana
 3 cattle at a cattle market outside this state shall be
 4 commissioned by the department, and may inspect cattle that
 5 come from this state to the market where he is located. He
 6 has the same power as stock inspectors in this state to
 7 inspect, ~~and~~ seize, and sell stock which he has reason to
 8 believe is stolen, or on which brands have been altered or
 9 obliterated. He may take the proceeds of an animal in
 10 dispute, or bearing altered or burned brands, resitting the
 11 proceeds to the department, which shall hold the proceeds
 12 pending a decision on ownership.

13 (2) The stock inspector shall, on receipt of the
 14 certified lists mentioned in ~~sections 46-1009~~ 46-1008 and
 15 46-1010, make an inspection of the cattle listed, and if, on
 16 comparison of the list with his own inspection, he finds a
 17 difference or discrepancy, he shall make a second inspection
 18 of any animal for which the two tallies do not agree,
 19 clipping the animal when necessary to determine, accurately
 20 and definitely, which inspection or tally is correct. He
 21 shall immediately make an inspection report to the
 22 department, stating in detail where the discrepancies with
 23 the loading tally exist, and calling special attention to
 24 his own inspection of the animal. He shall, in his own
 25 report, make mention of any animal, with the brands on the

1 animal, which were taken out by the shipper in charge of the
 2 stock while in transit between the original loading point
 3 and point of final destination. These reports shall be
 4 entered in a suitably bound book and are at all times open
 5 to public inspection."

6 Section 45. Section 46-1101.2, R.C.M. 1947, is amended
 7 to read as follows:

8 "46-1101.2. Hide certificate — identification. (1) A
 9 seller of an animal hide shall obtain a hide certificate
 10 from the person receiving the hide. The department shall
 11 prescribe the form of the certificate which shall include
 12 the marks and brands on each hide. The party receiving the
 13 hide must designate where it will be kept for ~~thirty~~ (30)
 14 days following delivery. The certificate must be signed by
 15 the seller or his agent and the person receiving the hide.

16 (2) Hide certificates, tags, and glue shall be
 17 furnished to the sheriff of each county by the department at
 18 cost and by the sheriff to any person requiring the
 19 certificates, tags, and glue. Only those certificates, tags,
 20 and glue distributed by the department may lawfully be used
 21 under this act. The original certificate shall be filed with
 22 the sheriff of the county of the seller's residence. One ~~(4)~~
 23 copy shall be sent by the party receiving the hide to the
 24 department, one ~~(4)~~ retained by the seller, and one ~~(4)~~ by
 25 the hide buyer. On reasonable notice, a sheriff, deputy

1 sheriff, state stock inspector, or deputy state stock
 2 inspector may inspect the hide certificate copy of the
 3 seller or buyer. The department shall prescribe an
 4 identification tag to be affixed to each hide by the person
 5 receiving the hide when it is delivered. ~~Hide dealers and~~
 6 ~~buyers~~ If hides are purchased outside the county of the
 7 seller's residence, the hide dealer or buyer must also mail
 8 ~~the original~~ a copy of the hide certificate to the sheriff
 9 of each county in which hides are purchased within ~~five~~ (5)
 10 days after purchase."

11 Section 46. Section 46-1103, R.C.M. 1947, is amended
 12 to read as follows:

13 "46-1103. Mutilation or concealment of hides deemed a
 14 felony. Every person who willfully or maliciously mutilates,
 15 destroys, or conceals the hide ~~from~~ of any horse, mare,
 16 colt, mule, jack, ~~jeanet~~ jenny, bull, steer, cow, calf,
 17 goat, hog, or sheep with intent to or for the purpose of
 18 removing evidence of ownership of such hide or the animal
 19 from which ~~said~~ the hide was removed, is guilty of a felony,
 20 and punishable as hereinafter provided."

21 Section 47. Section 46-1104, R.C.M. 1947, is amended
 22 to read as follows:

23 "46-1104. Sufficiency of pleading and proof in
 24 criminal prosecution ~~under act~~. In any prosecution for the
 25 violation of the provisions of this act, it ~~shall~~ is not be

1 necessary for the state to allege in the complaint or
 2 information ~~or proof~~, the ownership of the hide, or of the
 3 animal from which ~~said~~ the hide was removed, but it ~~shall be~~
 4 is sufficient to allege in the complaint or information ~~or~~
 5 ~~proof~~ that the owner of ~~said~~ the hide or of the animal from
 6 which ~~said~~ the hide was removed, is unknown and not the
 7 property of the defendant."

8 Section 48. Section 46-1107, R.C.M. 1947, is amended
 9 to read as follows:

10 "46-1107. Hide dealer or ~~buyers~~ buyer's license fee —
 11 disposition of proceeds. ~~Before engaging in business in~~
 12 this state, a hide dealer or buyer shall ~~pay to obtain a~~
 13 license from the department, ~~a~~ The annual license fee ~~of~~
 14 ~~five dollars is~~ {5} for each established place of business
 15 at which the hide dealer or buyer purchases or deals in
 16 hides, ~~before engaging in or conducting this business in~~
 17 ~~this state~~. The license continues in force for that calendar
 18 year. The moneys collected from the licenses shall be placed
 19 in the earmarked revenue fund ~~of~~ for the department. The
 20 license must be renewed January 1 of each year."

21 Section 49. Section 46-1107.1, R.C.M. 1947, is amended
 22 to read as follows:

23 "46-1107.1. Acting without a license — revocation.
 24 (1) Any person acting as a hide dealer or buyer without a
 25 license as required by this act is guilty of a misdemeanor.

1 (2) Upon receipt of a certified copy of the judgment
2 of conviction of any hide dealer or buyer for any violation
3 of this act, the ~~livestock commission~~ department may revoke
4 the license of such person for ~~one~~ 1 year commencing on the
5 date of the licensee's conviction."

6 Section 50. Section 46-1406, R.C.M. 1947, is amended
7 to read as follows:

8 "46-1406. Procedure when owner unknown or not resident
9 of state — sale of wire removed. If there ~~be~~ is no known
10 owner of such wire within the state, or if such owner ~~be~~ is
11 unknown to the board of county commissioners, ~~said the~~ the board
12 ~~shall have authority to~~ may collect and remove ~~said the~~ the wire
13 at the expense of the county. All such wire or other fencing
14 as in the opinion of the board of county commissioners can
15 be sold at a price sufficient to cover at least the expense
16 of removal and sale, shall be sold by the county
17 commissioners in the manner ~~now~~ provided by law for the sale
18 of county property, except that notice of such sale need be
19 published only once and need be given only ~~ten~~ 10 days
20 before such sale."

21 Section 51. Section 46-1410, R.C.M. 1947, is amended
22 to read as follows:

23 "46-1410. Stock trespassing may be retained. (1) If
24 an animal breaks into an inclosure surrounded by a legal
25 fence, or is wrongfully on the premises of another, the

1 owner or occupant of the inclosure or premises may take into
2 his possession the trespassing animal, and keep the animal
3 until all damages, together with reasonable charges for
4 keeping and feeding the animal, are paid. The person who
5 takes the animal into his possession shall, within
6 ~~seventy-two~~ (72) hours after he takes possession, give
7 written notice to the owner or person in charge of the
8 animal, stating that he has taken the animal. The notice
9 shall also give the date of the taking, the description of
10 the animal taken, including marks and brands, if any, the
11 amount of damages claimed, ~~and~~ the charge per head per day
12 for caring for and feeding the animal, and ~~shall describe~~
13 the description, either by legal subdivisions or other
14 general description, of the location of the premises on
15 which the ~~animals are~~ animal is held. In all cases a copy of
16 the notice shall also be posted at a point where the ~~stock~~
17 animal was taken.

18 (2) The notice shall be given to the owner or person
19 in charge only when the owner or person in charge of the
20 animal is known to the person taking the animal and resides
21 within ~~twenty-five~~ (25) miles of the premises on which the
22 ~~animals have been~~ animal was taken. If the owner or person
23 in charge of the animal resides more than ~~twenty-five~~ (25)
24 miles from the place of the taking, the notice shall be
25 mailed to him, ~~and in~~ In this case, ~~and also~~ or if the

1 owner is unknown, a similar notice shall be mailed to the
 2 department of livestock and the sheriff of the county in
 3 which the ~~animals have~~ animal has been taken. On receipt of
 4 the notice, the sheriff shall post a copy of the notice at
 5 the courthouse and shall send by ~~registered~~ certified mail a
 6 copy of it to the owner of the stock, if known to him. If
 7 unknown to him, the sheriff shall send a copy of the notice
 8 to the nearest state livestock inspector.

9 (3) If the parties within ~~five~~ (5) days thereafter do
 10 not agree to the amount of damages, the ~~lien~~ claimant must
 11 within ~~ten~~ (10) days thereafter institute a civil action to
 12 ~~foreclose his lien~~ collect his claim in a court of competent
 13 jurisdiction. Pending the outcome of the suit, the person
 14 taking the stock may, at the expense of the owner, retain a
 15 sufficient ~~amount~~ number of ~~stock~~ animals to cover the
 16 amount of damages claimed by him. The defendant may, after
 17 the institution of the action, on filing a bond executed by
 18 two ~~(2)~~ or more sureties and approved by the court, in
 19 double the sum sued for, conditioned ~~for~~ upon the payment to
 20 the plaintiff of all sums, including costs that may be
 21 recovered by the plaintiff, have all livestock returned to
 22 him, ~~and the person.~~ The claimant is liable to the owner for
 23 any loss or injury to the stock occurring through his fault
 24 or neglect. If the ~~person taking the stock~~ claimant fails
 25 to recover in the action a sum equal to that offered him by

1 the owner of the stock, the ~~former~~ claimant bears the
 2 expense of keeping and feeding the stock while in his
 3 possession.

4 (4) A person who takes or rescues an animal from the
 5 possession of the person taking the animal, without his
 6 consent, is guilty of a misdemeanor, and shall be fined not
 7 less than ~~one hundred dollars~~ (\$100) ~~nor~~ or more than ~~five~~
 8 ~~hundred dollars~~ (\$500)."

9 Section 52. Section 46-1708, R.C.M. 1947, is amended
 10 to read as follows:

11 "46-1708. Declaration of animals running at large as
 12 nuisance — abatement. Any such animal so running at large
 13 ~~shall be, and it is hereby declared to be,~~ is a public
 14 nuisance, which, in addition to the means and proceedings
 15 prescribed by this act for its abatement and removal, may be
 16 abated and removed by the means and proceedings ~~now,~~ or
 17 ~~hereafter to be,~~ provided by law for the abatement or
 18 removal of public nuisances."

19 Section 53. Section 46-1717, R.C.M. 1947, is amended
 20 to read as follows:

21 "46-1717. Female breeding cattle, purebred bull to
 22 accompany. (1) Any person, ~~or~~ persons, firm, company, or
 23 corporation allowing or permitting female breeding cattle to
 24 run at large upon the public ranges or national forest
 25 reserves in the state of Montana must place upon ~~said~~ the

1 range or national forest reserve one purebred graded bull of
 2 a recognized beef type, not less than ~~fifteen~~ (15) months
 3 ~~or~~ or more than ~~eight~~ (8) years of age, for every ~~thirty~~
 4 (30) head of female breeding cattle, pastured upon such
 5 range or national forest reserve, ~~provided, however, that~~
 6 ~~any.~~ Any two (2) or more such users of the public range or
 7 national forest reserve may join together in furnishing such
 8 bull when the aggregate number of female breeding cattle
 9 turned loose upon the same range or national forest reserve
 10 by such two (2) or more users thereof does not exceed ~~thirty~~
 11 (30) head.

12 (2) A purebred bull as contemplated by this act must
 13 be a bull having a registration certificate from the
 14 breeding association of its particular breed. A graded bull,
 15 as defined in this act, shall be ~~see~~ a purebred bull
 16 selected by a committee of permittees."

17 Section 54. Section 46-1802, R.C.M. 1947, is amended
 18 to read as follows:

19 "46-1802. Abandoned horses on public range declared
 20 public nuisance subject to condemnation — right of owner.
 21 ~~It shall be~~ is unlawful for any person ~~to suffer or permit~~
 22 ~~any abandoned horse to run at large~~ owning or having control
 23 of any horse to abandon the horse upon the open range in the
 24 state of Montana, and such horses so running at large upon
 25 the open range in the state are ~~hereby declared to be~~ a

1 public nuisance and a public menace, and are ~~hereby~~
 2 condemned, subject to the right of the owner of any such
 3 abandoned horse to reclaim the same ~~as~~ ~~and~~ under the
 4 conditions hereinafter provided."

5 Section 55. Section 46-2412, R.C.M. 1947, is amended
 6 to read as follows:

7 "46-2412. Disposal of hides — inspection — filing of
 8 dead or fallen animal record. When a licensed renderer or
 9 his agent disposes of the hides from dead or fallen animals,
 10 the hides shall be handled and inspected for marks and
 11 brands in conformity with Title 46, chapter 11. The sheriff,
 12 deputy sheriff, person designated by the board of county
 13 commissioners, or the agent of the department who makes the
 14 inspection for marks and brands in conformity with Title 46,
 15 chapter ~~26~~ 11, shall complete the original dead or fallen
 16 animal record which accompanies the hide by inserting his
 17 inspector's tag number. He shall file the completed original
 18 dead or fallen animal record without cost in the office of
 19 the county clerk and recorder, together with the duplicate
 20 certificate of inspection required to be filed under Title
 21 46, chapter 11."

22 Section 56. Section 46-3001, R.C.M. 1947, is amended
 23 to read as follows:

24 "46-3001. Dogging livestock. Any person, who shall
 25 ~~permit permits~~ or ~~direct~~ directs any dog owned by ~~them~~, him

1 or in ~~their~~ his possession ~~or in the possession of any~~
 2 ~~employer~~ to chase or run any cattle or other livestock, of
 3 which he is not the owner or the person in charge, upon the
 4 open range, or government lands or away from any watering
 5 place upon the open range, ~~shall be~~ is guilty of a
 6 misdemeanor and ~~shall be~~ punishable by a fine of not more
 7 than ~~fifty dollars~~ \$50."

8 Section 57. Section 46-3007, R.C.M. 1947, is amended
 9 to read as follows:

10 "46-3007. Stolen livestock — seizure and confiscating
 11 of vehicle used to transport — service of process. Service
 12 of process in ~~such a~~ a proceeding for confiscation of such
 13 vehicle shall conform as far as practicable with the
 14 provisions of ~~sections 93-3007 to 93-3015, both inclusive,~~
 15 the Montana rules of civil procedure, provided, that ~~in so~~
 16 ~~far~~ insofar as the proceeding against the vehicle is
 17 concerned no copy of the summons or complaint need be mailed
 18 ~~and no showing need be made under the provisions of said~~
 19 ~~section 93-3012,~~ and the service shall be complete upon
 20 publication."

21 Section 58. Section 82A-406.1, R.C.M. 1947, is amended
 22 to read as follows:

23 "82A-406.1. Intent of act. ~~It is the intent of this~~
 24 ~~act to place jurisdiction~~ Jurisdiction over milk hauling
 25 rates from producer to plant is in the department of

1 business regulation and jurisdiction over such rates among
 2 plants is in the board of milk control."

3 Section 59. Repealer. Sections 3-2445, 3-2446, 46-904,
 4 46-905, and 46-1201 through 46-1204, R.C.M. 1947, are
 5 repealed.

--End--

HOUSE MEMBERS

ROBERT L. MARKS
CHAIRMAN

RANCIS BARDANOUVE

OSCAR KVAALEN

PAT MC KITTRICK

ROSE WEBER
EXECUTIVE DIRECTOR

PAMELA DUENSING
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
SUPERVISOR, ALTER SYSTEM



Montana Legislative Council

State Capitol

Helena, 59601

SENATE MEMBERS

NEIL J. LYNCH
VICE CHAIRMAN

GLEN DRAKE

CARROLL GRAHAM

FRANK HAZELBAKER

DIANA DOWLING
DIRECTOR, LEGAL SERVICES;
CODE COMMISSIONER

ROBERT PERSON
DIRECTOR, RESEARCH

LC 0053

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 14

TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO LIVESTOCK.

(This summary does not include discussion of routine form and grammatical changes.)

Section 1. 3-2404. Made grammatical changes. In (2) changed "process" to "processed" butter.

In (18) changed reference from "3-2460" to "3-24-137". Section 3-2460 was the old general penalty section and was repealed along with the rest of the old law. 3-2404 is all that remains. The new general penalty provision is 3-24-137, and there is no reason why it should not apply in 3-2404 as well.

Section 2. 3-2489. This section is reworded for clarification. It was difficult to ascertain exactly which functions applied to "milk and cream used for manufacturing purposes" and which applied to "manufactured dairy products".

Section 3. 3-2496. Added "and the rules" which were apparently inadvertently omitted in the original bill.

Section 4. 3-2497. In (4) the reference to "subsection (3)" appears to be an error and is changed to "subsection (2)" instead. In (23) and (25) the wording is changed for clarity. In (21) an incorrect reference to subsection (2)(e) is changed to subsection (2)(1). In (28) the words "refers especially but is not limited to" were added, apparently having been deleted inadvertently in chapter 310, Laws 1974. (See original version section 10, chapter 413, Laws 1971.)

Section 5. 3-2498. Deleted addresses because incorrect and unnecessary.

Section 6. 3-24-122. Deleted "one which" for grammatical clarity.

Section 7. 3-24-127. Added "apparatus", which was apparently inadvertently omitted in the original bill.

Section 8. Rewrote section to clarify meaning.

Section 9. 46-208. In (2) changed "to" to "may" for grammatical clarity. In (6) deleted "state chemist" since there no longer is one, and replaced "department's chemist, bacteriologist" with the less specific "department", to better accommodate future changes of terminology. In (11) added "by-product" to supply the missing word.

There are several acts codified in chapter 2, Title 46, all of them relating to animal health. Therefore, in changing "this act" to the appropriate code reference it would be improper to automatically replace "this act" with "this chapter" although in most cases in the chapter such a reference would be appropriate. On the other hand, it would be extremely awkward to record all the individual sections actually comprising the original "this act" each time those words are encountered. It is frequently difficult to determine what sections should be recorded. For example, one act will often amend some sections of a previous act as well as add new sections. In such an amended section does "this act" mean the original act, the amending act, or both? Examples can be given to support all three answers, based on apparent legislative intent in each case. To alleviate questions of construction in this chapter, it is therefore necessary for the legislature to specify what comprises each "act", or to eliminate the reference altogether, which is appropriate in many instances.

In most cases in chapter 2, this bill changes "this act" to "this chapter" to indicate the section applies to the entire chapter, rather than just the original act of which it was a part. Such a change broadens the application of general sections like 46-240, 46-243, 46-208, 46-211, 46-238, and 46-239 to include sections like 46-209, 46-212 through 46-215, 46-239.1, 46-239.2, and 46-247 which were not part of the same original act as were the former. However, such extended application appears proper and probably was intended by the legislature enacting the later laws.

In 46-208(6) the first "act" is deleted, the next two are changed to "this chapter". In 46-208(10) the first "act" is deleted, the second is changed to "chapter".

Section 10. 46-211. Changed "act" to "chapter" for reason stated above.

Section 11. 46-212. In (2) changed "act" to "section" because this section itself prescribes the procedure for establishing disease control areas.

Section 12. 46-217. Changed "act" to "chapter" for reason stated above.

Section 13. 46-218. Deleted first "act" and changed "act" in subsection (4) to "section" for reason stated above. Changed "department" to "board" in (4) since a department does not "meet", and because board appears to be the proper approving authority.

Section 14. 46-220. Deleted reference to "this act" as unnecessary.

Section 15. 46-224. Changed "act" to "chapter" for reason stated above.

Section 16. 46-226. Changed "act" to "chapter" for reason stated above.

Section 17. 46-228. Changed "act" to "chapter" for reason stated above. Rearranged.

Section 18. 46-230. Deleted reference to "this act" as unnecessary.

Section 19. 46-232(5). Changed "this act" to "this section", since the intent of the provision seems directed only to the section itself.

Section 20. 46-233. Changed "this act" to "this section" since the section itself appears to be the appropriate reference.

Section 21. 46-234. Changed "act" to "chapter" for reason stated above. Changed "state board of health" to "department and board of health and environmental sciences" to correct improper reference.

Section 22. 46-235. Changed "act" to "46-208", the section granting authority to the board to make rules and orders.

Sections 23, 24, and 25. 46-238, 46-239, and 46-243. Changed "act" to "chapter" for reason stated above.

Section 26. 46-248. Changed "act" to "section 46-247", the appropriate reference according to the legislative history.

Section 27. 46-605. Deleted "to" because overlooked when language was changed from "...it shall be the duty of the recorder (to)..." to "...the department shall...".

Section 28. 46-808. Deleted "excluded from this act" because it has no meaning.

Section 29. 46-903. Amended last sentence to state how the money from the sale of the livestock is to be disposed of without referring to 46-904, which is repealed by this bill.

Section 30. 46-906. Changed "this act" to "this chapter". This chapter (chapter 9, Title 46) includes two separate acts, however the second act (livestock markets) appears to supplement rather than replace the first (public markets), hence they should be read together, and "this act" is accordingly changed to "this chapter" wherever the words appear. This change has already been made by previous legislatures in some of the sections (i.e.) 46-906.1 and 46-907.1. Also changed "licensed" and "licensee" to "for which a certificate is issued" and "livestock market". There is no requirement of licensure unless the "certificate" of 46-906 (4) is construed as a "license". The board does not issue any license, nor renew any license annually, as might be implied under 46-911. "License" and "licensee" are improper terms, therefore, and are deleted in this chapter.

Section 31. 46-906.1. Changed "licensed" to "authorized" for reason stated above.

Section 32. 46-907. Changed "this act" to "this chapter" for reason stated above.

Section 33. 46-907.1. Changed "licensed" to "authorized" for reason stated above.

Section 34. 46-908. Changed "this act" to "this chapter" for reason stated above.

Section 35. 46-910. Changed "licensed" to "for which a certificate has been issued" for reason stated above. Changed "this act" to "this chapter" for reason stated above.

Section 36. 46-911. Deleted "license" for reason stated above. Changed "act" to "chapter" for reason stated above.

Section 37. 46-912. Changed "act" to "chapter" for reason stated above. Changed "licensee" to "livestock market" for reason stated above.

Section 38. 46-913. Changed "licensee" to "livestock market" for reason stated above.

Section 39. 46-915. Changed "act" to "chapter" for reason stated above. Changed "licensee" to "operator of a livestock market" for reason stated above and rearranged and reworded for clarity.

Section 40. 46-916. Changed "act" to "chapter" for reason stated above. Changed "licensee" to "livestock market" for reason stated above. Deleted "may" for grammatical reasons.

Section 41. 46-917. Changed "licensee" to "livestock market" for reasons stated above.

Section 42. 46-920. Changed "a" to "another" for grammatical clarity. Changed "act" to "chapter" for reason stated above. 46-905 provides a penalty for the earlier act which is inconsistent with the penalty structure of 46-920, but 46-905 is repealed in the bill. Changing "act" to "chapter" here will make 46-920 the overall general penalty section.

Section 43. 46-921. Changed "this act" to "this chapter" for reason stated above.

Section 44. 46-1011. Added express power of the out-of-state inspector to sell livestock as well as seize it. This power is implied in the following part of this section which specifies how the proceeds are to be dispersed. Also changed the reference to 46-1009, since it appears incorrect. The correct reference, to shipping lists, is 46-1008.

Section 45. 46-1101.2. The section is inconsistent with itself concerning which sheriff is to receive the original hide certificate. It is changed to require the certificate be sent to the sheriff of the county of the seller's residence and in addition if the hide is sold outside of that county, then also to the sheriff of the county of sale.

Section 46. 46-1103. Change "jennet" to "jenny" to correct spelling.

Section 47. 46-1104. Deleted "or proof" because meaningless.

Section 48. 46-1107. Added express annual license requirement, which is presently implied only.

Section 49. 46-1107.1. Changed reference to "livestock commission" to "department" to reflect current terminology, the "livestock commission" was abolished and this licensing function transferred to the department pursuant to 46-1107.

Section 50. 46-1406. Deleted "now" as temporary and inappropriate usage.

Section 51. 46-1410. In subsection (3) the references to "lien" and "lien foreclosure" are deleted, since nowhere does the statute create any lien in these circumstances. "Person" is changed to "claimant" for clarification.

Section 52. Deleted unnecessary and awkward language.

Section 53. 46-1717. Because "grade" is a common term used for a commercial, nonregistered animal (see 46-218 where "grade" is used in that way) the term "graded" bull in this section creates confusion. "Graded" bull as used here, although not clearly defined in the last sentence, apparently means a purebred bull selected by a committee of permittees. This is the interpretation of the authorities consulted. It does not mean a "grade" or nonregistered bull. The last sentence is accordingly changed to clarify the definition of a "graded" bull.

Section 54. 46-1802. The section makes it a crime for any person, owner or otherwise, to allow an abandoned horse to run at large. The section is amended to place the obligation on the owner or person having control.

Section 55. 46-2412. This section incorrectly refers to Title 46, chapter 26 in the second sentence. Title 46, chapter 11 has been substituted in its place.

Section 56. 46-3001. Deleted "...or in the possession of any employer ..." as unnecessary language.

Section 57. 46-3007. Changed references to "93-3007 to 93-3015" to "Montana rules of civil procedure" instead, since the rules have replaced those former statutes. Delete the phrase referring to the showing under 93-3013 for the same reason.

Section 58. 82-A-406.1 Deleted unnecessary language. To replace "this act" with "27-405", the substantive part of "this act", would be erroneous, since "this act" (chapter 267, Laws 1975) merely amended 27-405 in a minor way. Thus the words "this act" are merely deleted. In recodification this section will be relocated to follow 27-405.

Section 59. Repealers. 3-2445 and 3-2446. These sections were declared unconstitutional in Brackman v. Kruse, 122 Montana 91, and have not been codified by Allen Smith for several years.

They are specifically repealed.

46-904. This section is inconsistent on its face, first requiring money to be held for 2 years, then saying 1 year. It appears to simply repeat the substance of the last two sentences of 46-903. The "published yearly report" referred to is no longer made by the department. It seems desirable to simply repeal this section and amend 46-903 to provide for the disposal of the proceeds, thus striking the reference there to 46-904.

46-905. This is the penalty section of the "public market" law, which law appears to be revised by the addition of the sections concerning livestock markets beginning at 46-906. This section is inconsistent with 46-920, the later general penalty section, and is probably superseded by 46-920. Repealing 46-905 in this bill and changing "act" to "chapter" in 46-920 will specifically make 46-920 the only applicable penalty section.

46-1201 through 46-1204. These sections require the county assessor to list the names of all owners or breeders of purebred stock and send their lists to the experiment station where such lists would be published. According to the Lewis and Clark County assessor's office and the agricultural experiment station this has not been done in remembered history. The sections are therefore repealed.

SECOND READING

MISSING

1 SENATE BILL NO. 14
 2 INTRODUCED BY GRAHAM

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
 5 REVISION AND CLARIFICATION OF THE LAWS RELATING TO
 6 LIVESTOCK."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 3-2404, R.C.M. 1987, is amended to
 10 read as follows:

11 "3-2404. Definitions of terms. For the purpose of this
 12 act, the following definitions are adopted:

13 (1) Butter is the clean, nonrancid product made by
 14 gathering the fat of fresh ripened milk or cream into a mass
 15 which also contains a small portion of the other milk
 16 constituents, with or without salt, and must contain not
 17 less than ~~eighty percent (80%)~~ of milk fat. No tolerance for
 18 deficiency in milk fat is permitted. Butter may also contain
 19 added coloring matter.

20 (2) Renovated butter or ~~process~~ processed butter is
 21 the product made by melting and reworking, without the
 22 addition or use of chemicals or substances except whole
 23 milk, cream, or salt, and must contain not less than ~~eighty~~
 24 ~~percent (80%)~~ of milk fat.

25 (3) Cheese is the sound, solid, and ripened product

1 made from milk or cream by coagulating the casein with
 2 rennet or lactic acid, with or without ripening ferments and
 3 seasoning, and must contain in the ~~water-free~~ water-free
 4 substance, not less than ~~fifty percent (50%)~~ of milk fat,
 5 and not more than ~~thirty nine percent (39%)~~ of moisture.
 6 Cheese may also contain added coloring matter.

7 (4) Skimmed milk cheese is the sound, solid, and
 8 ripened product made from skim milk by coagulating the
 9 casein with rennet or lactic acid, with or without ripening
 10 ferments and seasoning.

11 (5) Ice cream is a frozen product made with pure,
 12 sweet milk, cream, skim milk, evaporated or condensed milk,
 13 evaporated or condensed skim milk, dry milk, dry skim milk,
 14 pure milk fat, ~~or~~ wholesome sweet butter, or any combination
 15 of these products, with or without sweetening, or clean
 16 wholesome eggs or egg products, with or without the use of
 17 harmless flavoring and coloring. Ice cream must contain not
 18 less than ~~ten percent (10%)~~ of milk fat, not less than
 19 ~~thirty three percent (33%)~~ total solids, and may or may not
 20 contain pure and harmless edible stabilizer. Ice cream may
 21 contain not to exceed ~~one percent (1%)~~ gelatin. No frozen
 22 milk or milk product may be manufactured or sold unless it
 23 contains at least ~~ten percent (10%)~~ butterfat, excepting
 24 sherbets, ices, and other exceptions under this section. All
 25 ice cream must be manufactured from pasteurized ice cream

There are no changes in SBH, and due to length will not
 be rerun. Please refer to yellow copy for complete text.

1 mix.

2 (6) Fruit ice cream shall conform to the requirements
3 of ice cream, except that the fruit ingredients must be from
4 sound, clean, and mature fruit, and it must contain not less
5 than ~~nine percent (9%)~~ of milk fat.

6 (7) French ice cream, French custard ice cream, cooked
7 ice cream, ice custard, parfaits, and similar frozen
8 products, except sherbets and water ices, are varieties of
9 ice cream.

10 (8) Ice cream mix is a pasteurized, unfrozen product
11 used in the manufacture of ice cream and must comply with
12 the requirements for ice cream.

13 (9) Milk sherbet is the pure, clean, frozen product
14 made from milk product, water, and sugar, with harmless
15 fruit or fruit juice flavoring and with or without harmless
16 coloring, which must contain not less than ~~0.35 of one~~
17 ~~percent (0.35%)~~ 35/100 of 1% of acid, as determined by
18 titrating with standard alkali and expressed as lactic acid,
19 and with or without added stabilizer composed of wholesome
20 edible material. It must contain not less than ~~four percent~~
21 ~~(4%)~~ by weight of solids.

22 (10) Ice or ice sherbet is the pure, clean, frozen
23 product made from water and sugar with harmless fruit or
24 fruit juice flavoring, and with or without harmless coloring
25 or added stabilizer composed of wholesome edible material,

1 and must ~~not~~ contain not less than ~~0.35 of one percent~~
2 ~~(0.35%)~~ 35/100 of 1% of acid, as determined by titrating
3 with standard alkali and expressed as lactic acid, ~~and with~~
4 ~~or without added stabilizer composed of wholesome edible~~
5 ~~material.~~ It must may contain no milk solids.

6 (11) A creamery is a place where ~~the~~ milk or cream
7 furnished by three ~~(3)~~ or more persons is used for ~~the~~
8 manufacture into butter for commercial purposes.

9 (12) A cheese factory is a place where milk furnished
10 by three ~~(3)~~ or more persons is made into cheese for
11 commercial purposes.

12 (13) An ice cream factory is a place where ice cream
13 mix is frozen into ice cream for commercial purposes.

14 (14) An ice cream mix factory is a place where ice
15 cream mix is made.

16 (15) A milk or cream buying or collecting station is a
17 place where milk or cream is bought or collected for
18 shipment or delivery to a creamery or to a person intending
19 to make use of it for commercial purposes.

20 (16) Person includes persons, whether natural or
21 artificial, including firms, ~~corporations~~ partnerships,
22 corporations, and marketing associations of every
23 description.

24 (17) The term "department", unless otherwise
25 indicated, means the department of livestock provided for in

1 SENATE BILL NO. 14
2 INTRODUCED BY GRAMM

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION AND CLARIFICATION OF THE LAWS RELATING TO
6 LIVESTOCK."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 3-2404, R.C.M. 1947, is amended to
10 read as follows:

11 "3-2404. Definitions of terms. For the purpose of this
12 act, the following definitions are adopted:

13 (1) Butter is the clean, nonrancid product made by
14 gathering the fat of fresh ripened milk or cream into a mass
15 which also contains a small portion of the other milk
16 constituents, with or without salt, and must contain not
17 less than ~~eighty percent~~ (80%) of milk fat. No tolerance for
18 deficiency in milk fat is permitted. Butter may also contain
19 added coloring matter.

20 (2) Renovated butter or ~~process~~ processed butter is
21 the product made by melting and reworking, without the
22 addition or use of chemicals or substances except whole
23 milk, cream, or salt, and must contain not less than ~~eighty~~
24 ~~percent~~ (80%) of milk fat.

25 (3) Cheese is the sound, solid, and ripened product

1 made from milk or cream by coagulating the casein with
2 rennet or lactic acid, with or without ripening ferments and
3 seasoning, and must contain in the ~~water-free~~ water-free
4 substance, not less than ~~fifty percent~~ (50%) of milk fat,
5 and not more than ~~thirty-nine percent~~ (39%) of moisture.
6 Cheese may also contain added coloring matter.

7 (4) Skimmed milk cheese is the sound, solid, and
8 ripened product made from skim milk by coagulating the
9 casein with rennet or lactic acid, with or without ripening
10 ferments and seasoning.

11 (5) Ice cream is a frozen product made with pure,
12 sweet milk, cream, skim milk, evaporated or condensed milk,
13 evaporated or condensed skim milk, dry milk, dry skim milk,
14 pure milk fat, ~~or~~ wholesome sweet butter, or any combination
15 of these products, with or without sweetening, or clean
16 wholesome eggs or egg products, with or without the use of
17 harmless flavoring and coloring. Ice cream must contain not
18 less than ~~ten percent~~ (10%) of milk fat, not less than
19 ~~thirty-three percent~~ (33%) total solids, and may or may not
20 contain pure and harmless edible stabilizer. Ice cream may
21 contain not to exceed ~~one percent~~ (1%) gelatin. No frozen
22 milk or milk product may be manufactured or sold unless it
23 contains at least ~~ten percent~~ (10%) butterfat, excepting
24 sherbets, ices, and other exceptions under this section. All
25 ice cream must be manufactured from pasteurized ice cream

1 mix.

2 (6) Fruit ice cream shall conform to the requirements
3 of ice cream, except that the fruit ingredients must be from
4 sound, clean, and mature fruit, and it must contain not less
5 than ~~nine percent (9%)~~ of milk fat.

6 (7) French ice cream, French custard ice cream, cooked
7 ice cream, ice custard, parfaits, and similar frozen
8 products, except sherbets and water ices, are varieties of
9 ice cream.

10 (8) Ice cream mix is a pasteurized, unfrozen product
11 used in the manufacture of ice cream and must comply with
12 the requirements for ice cream.

13 (9) Milk sherbet is the pure, clean, frozen product
14 made from milk product, water, and sugar, with harmless
15 fruit or fruit juice flavoring and with or without harmless
16 coloring, which must contain not less than ~~0.35 of one~~
17 ~~percent (0.35%)~~ 35/100 of 1% of acid, as determined by
18 titrating with standard alkali and expressed as lactic acid,
19 and with or without added stabilizer composed of wholesome
20 edible material. It must contain not less than ~~four percent~~
21 ~~(4%)~~ by weight of solids.

22 (10) Ice or ice sherbet is the pure, clean, frozen
23 product made from water and sugar with harmless fruit or
24 fruit juice flavoring, and with or without harmless coloring
25 or added stabilizer composed of wholesome edible material,

1 and must ~~not~~ contain not less than ~~0.35 of one percent~~
2 ~~(0.35%)~~ 35/100 of 1% of acid, as determined by titrating
3 with standard alkali and expressed as lactic acid, ~~and with~~
4 ~~or without added stabilizer composed of wholesome edible~~
5 ~~material.~~ It ~~must~~ may contain no milk solids.

6 (11) A creamery is a place where ~~the~~ milk or cream
7 furnished by three ~~(3)~~ or more persons is used for ~~the~~
8 manufacture into butter for commercial purposes.

9 (12) A cheese factory is a place where milk furnished
10 by three ~~(3)~~ or more persons is made into cheese for
11 commercial purposes.

12 (13) An ice cream factory is a place where ice cream
13 mix is frozen into ice cream for commercial purposes.

14 (14) An ice cream mix factory is a place where ice
15 cream mix is made.

16 (15) A milk or cream buying or collecting station is a
17 place where milk or cream is bought or collected for
18 shipment or delivery to a creamery or to a person intending
19 to make use of it for commercial purposes.

20 (16) Person includes persons, whether natural or
21 artificial, including firms, ~~copartnerships~~ partnerships,
22 corporations, and marketing associations of every
23 description.

24 (17) The term "department", unless otherwise
25 indicated, means the department of livestock provided for in

1 Title 82A, chapter 13.

2 (18) It is unlawful for a person, firm, or
3 corporation, or its servant or agent, to manufacture, sell,
4 or expose, or offer for sale, or exchange butter or other
5 substance or commodity defined in this act containing less
6 butterfat or other ingredient than required by this act. A
7 violator is guilty of a misdemeanor and is punishable under
8 ~~section 3-2469 3-24-137.~~"

9 Section 2. Section 3-2489, R.C.M. 1947, is amended to
10 read as follows:

11 "3-2489. Promulgation of minimum standards for milk or
12 cream. The department may adopt minimum standards for ~~milk~~
13 ~~and cream used for manufacturing purposes; its~~ the
14 production, transportation, grading, testing, use,
15 processing, ~~and the~~ packaging, and storage of ~~manufactured~~
16 ~~dairy products~~ milk and cream used for manufacturing
17 purposes and of manufactured dairy products."

18 Section 3. Section 3-2496, R.C.M. 1947, is amended to
19 read as follows:

20 "3-2496. Investigation of complaints and violations --
21 injunction. The department shall provide for periodic
22 inspections and investigations to disclose violations of
23 this act or of rules adopted under this act. The department
24 shall receive and provide for the investigation of
25 complaints and request the institution and prosecution of

1 civil or criminal actions, or both. This act and the rules
2 adopted under it may be enforced by injunction in a court
3 having jurisdiction to grant injunctive relief. An
4 adulterated, impure, contaminated, misbranded, condemned, or
5 mislabeled article or product involved in a violation of
6 this act or of the rules adopted under this act is subject
7 to seizure and disposition under an order of the court."

8 Section 4. Section 3-2497, R.C.M. 1947, is amended to
9 read as follows:

10 "3-2497. Definitions. Unless the context requires
11 otherwise in this act the following definitions apply:

12 (1) "Department" means the department of livestock,
13 provided for in Title 82A, chapter 13.

14 (2) "Milk" and "cream" mean milk and cream sold, used,
15 or intended for manufacturing purposes or for conversion
16 into products of a form other than the form in which
17 originally produced or products commonly known as, but not
18 limited to:

- 19 (a) Butter;
20 (b) Cheese, including cottage cheese, low-fat cottage
21 cheese, cheese curd, and cream cheese which are either
22 cultured or directly acidified, and cheese dressings;
23 (c) Ice cream or its mix;
24 (d) Frozen dessert or its mix;
25 (e) ~~Sherbet~~ Sherbets of all kinds or their mixes;

1 (f) Frozen ice cream bars, sandwiches, cones, and
 2 similar novelties;
 3 (g) Frozen desserts or products made in the semblance
 4 or imitation of frozen dessert;
 5 (h) Frozen confections or their mixes;
 6 (i) Water ices or their mixes;
 7 (j) Ice milk or its mix;
 8 (k) French ice cream, French custard, or their mixes;
 9 (l) Frozen custard or its mix and frozen yogurt;
 10 (m) Yogurt, flavored yogurt, and low-fat yogurt;
 11 (n) Sour cream—either cultured or directly
 12 acidified;
 13 (o) Cream cheese—either cultured or directly
 14 acidified;
 15 (p) Buttermilk—either cultured, from churned butter,
 16 or directly acidified;
 17 (q) Eggnog, low-fat eggnog, ~~eggnog~~—flavored
 18 ~~eggnog-flavored~~ milk, whipped cream, flavored toppings, and
 19 similar flavored products;
 20 (r) Dry or powdered milk; and
 21 (s) Condensed milk products.
 22 (3) The items specified in subsections (2) ~~(a) through (s)~~ (a) through
 23 (2) (s) of this section, ~~(a) through (s)~~ shall conform to the
 24 standards of identity set forth in the Code of Federal
 25 Regulations. If standards of identity are not set forth in

1 the code, then the standards adopted by the department
 2 prevail. The labeling of manufactured dairy products shall
 3 be in accordance with the Montana Food, Drug, and Cosmetic
 4 Act.

5 (4) "Manufactured dairy product" means an item
 6 enumerated in subsection ~~(3)~~ (2) or any other dairy product
 7 made by incorporating milk or cream or converting milk or
 8 cream into a different state of appearance or quality.

9 (5) "Manufactured dairy products plant" or "factory"
 10 means a place where milk or cream is collected, and
 11 converted into a product, or into a different state of
 12 appearance or quality or which manufactures those products
 13 listed in subsection (2). If only products of semblance or
 14 imitation of dairy products are made, the plant is not
 15 considered as a manufactured dairy products plant.

16 (6) "Creamery" means a place where butter is made for
 17 commercial purposes.

18 (7) "Cheese factory" means a place where cheese
 19 including cream cheese, cottage cheese, creamed cottage
 20 cheese, cheese curd, cottage cheese dressing, and low-fat
 21 counterparts of cheese, either cultured or directly
 22 acidified, are is made for commercial purposes.

23 (8) "Frozen dessert plant" means a place where
 24 products named in ~~subsection~~ subsections (2) (c) through
 25 (2) (i) of this section are made for commercial purposes.

1 (9) "Cream station" means a place other than a
2 creamery where deliveries of milk or cream are weighed,
3 graded, sampled, tested, or collected for purchase.

4 (10) "Dairy" or "dairy farm" means a place where one
5 ~~four~~ or more cows or goats are kept, a part or all of the
6 milk or cream from which is used for manufacturing purposes.

7 (11) "Milk" means the lacteal secretion, practically
8 free from colostrum, obtained by the milking of one ~~four~~ or
9 more healthy cows located in modified accredited areas and
10 modified certified areas or from cows in herds fully
11 accredited as tuberculosis free by the United States
12 ~~Department~~ Department of ~~Agriculture~~ agriculture or in the
13 process of being accredited when the milk or cream is sold
14 for use in, intended for use in, or used in a manufactured
15 dairy product.

16 (12) "Cream" means the milk fat which rises to the
17 surface when milk is allowed to stand, or which is separated
18 from milk by centrifugal force when sold, used, or intended
19 for use in a manufactured product.

20 (13) "Raw milk" or "raw milk products" means milk or
21 milk products which have not been treated by a process of
22 pasteurization.

23 (14) "Person" means an individual, firm, partnership,
24 corporation, ~~co-operative~~ cooperative, or other business
25 unit or trade device.

1 (15) "Pasteurization," "pasteurizing," and similar
2 terms mean the process of heating every particle of milk or
3 milk product to at least 145 degrees F., and holding it
4 continuously at or above this temperature for at least
5 ~~thirty~~ ~~(30)~~ minutes, or to at least 161 degrees F. and
6 holding it continuously at or above this temperature for at
7 least ~~fifteen~~ ~~(15)~~ seconds, in equipment which is properly
8 operated and approved by the department. Milk products that
9 have a higher fat content than milk or contain added
10 sweeteners shall be heated to at least 155 degrees F. and
11 held continuously at or above this temperature for at least
12 ~~thirty~~ ~~(30)~~ minutes, or to at least 175 degrees F. and held
13 continuously at or above this temperature for at least
14 ~~twenty-five~~ ~~(25)~~ seconds. This definition does not bar any
15 other pasteurization process which has been recognized by
16 the United States ~~Public Health Service~~ public health
17 service to be equally effective and which is approved by the
18 department.

19 (16) "Agent" means a person who is authorized by
20 another person to act for him in dealing with a third
21 person.

22 (17) "Grading" means the examination of milk, cream,
23 or products, by sight, odor, taste, or laboratory analysis,
24 the results of which determine a grade designating their
25 quality.

1 (18) "Testing," "test," "tested," and similar words
2 mean the examination of milk, cream, or manufactured dairy
3 products by sight, odor, taste, or biological or chemical
4 laboratory analysis to determine their quality,
5 wholesomeness, or composition.

6 (19) "Safe temperature" means 45 degrees F. or less,
7 unless the product is frozen, in which case the temperature
8 must be at or below 0 degrees F.

9 (20) "Producer" means the person who exercises control
10 over the production of milk or cream, delivered to a milk or
11 cream receiving station or manufactured dairy products
12 plant, or who receives payment for milk or cream used in
13 manufacturing.

14 (21) "Mix" includes the liquid, unfrozen product from
15 which those frozen products listed under subsection (2) (c)
16 through (2) (e), and (2) (g) through (2) (i) are made.

17 (22) For purposes of reporting production, and
18 licensing, "manufactured dairy product" includes, but is not
19 limited to:

20 (a) Ice cream or its mix;

21 (b) French ice cream, custard ice cream, French
22 custard ice cream, their low-fat counterparts, or their
23 mixes;

24 (c) Sherbets of all kinds or their mixes;

25 (d) Animal or vegetable fat frozen desserts or their

1 mixes;

2 (e) Frozen confections or their mixes when made in a
3 manufactured dairy products plant;

4 (f) Water ices or their mixes;

5 (g) Frozen dessert sandwiches, bars, cones, and
6 similar novelties;

7 (h) Frozen dessert made of ~~non-dairy~~ non-dairy origins,
8 and other products made in the semblance or imitation of
9 dairy products or their mixes when made in a manufactured
10 dairy products plant;

11 (i) Ice milk or its mix;

12 (j) Cheese of all kinds including cottage cheese,
13 cheese curd, cheese dressing, and cream cheese either
14 cultured or directly acidified;

15 (k) Sour cream when cultured or directly acidified;

16 (l) Eggnog, low-fat eggnog, ~~eggnog-flavored~~
17 eggnog-flavored milk, and similar flavored products;

18 (m) Buttermilk, cultured, or from churned butter, or
19 directly acidified;

20 (n) Butter;

21 (o) Yogurt—low-fat yogurt, flavored yogurt, either
22 cultured or directly acidified, or frozen.

23 (23) "Official test" means test procedures outlined in
24 the sources referred to under ~~section~~ section 3-2498 of concerning
25 samples, methods, and rules of evidence.

1 (24) "Water ice" means a frozen product, containing,
2 but not limited to, the following ingredients: water, sugar,
3 flavoring, coloring, stabilizers, and other ingredients
4 allowed by the Code of Federal Regulations as optional
5 ingredients.

6 (25) "C.I.P." means the procedure by which sanitary
7 pipelines or pieces of dairy equipment are mechanically
8 cleaned in place by circulation and when this procedure
9 meets the 3-A accepted practices for permanently installed
10 sanitary product-pipelines and cleaning systems.

11 (26) "Filled dairy products" means milk, cream, or
12 skimmed milk, or any combination of these, whether or not
13 condensed, evaporated, concentrated, frozen, powdered,
14 dried, or desiccated, or any food product made or
15 manufactured from them, to which has been added, or which
16 has been blended or compounded with, fat or oil other than
17 milk fat, so that the resulting product is in imitation or
18 semblance of a dairy product, including milk, cream, sour
19 cream, skimmed milk, ice cream, low-fat ice cream, whipped
20 cream, flavored milk or skim milk yogurt, dried or powdered
21 milk, cheese, cream, cream cheese, cottage cheese, creamed
22 cottage cheese, ice cream mix, low-fat ice cream mix,
23 sherbet, condensed milk, evaporated milk, or concentrated
24 milk.

25 (27) "Intrastate commerce" means commerce within this

1 state under the jurisdiction of the state, and includes the
2 operation of a business or service establishment.

3 (28) "Code of Federal Regulations" refers especially
4 but is not limited to Title 21 which contains the
5 definitions and standards of identity for products as
6 established by the ~~Food and Drug Administration~~ drug
7 administration, United States ~~Department~~ department of
8 ~~Health, Education and Welfare~~ health, education and welfare.

9 (29) "Culture" means the harmless lactic acid
10 fermenting bacteria which are added to milk or cream to make
11 manufactured dairy products like cultured buttermilk,
12 cheese, cottage cheese, yogurt, sour cream, cream cheese,
13 butter, and other similar products.

14 (30) "Direct acidification—"directly acidified,"
15 and similar terms mean the process of adding a food grade
16 acid to milk or cream instead of or in addition to the
17 adding of culture.

18 (31) "Mislabeled," "unwholesome," "food additives,"
19 "optional ingredients," "impure," "misbranded,"
20 "contaminated," "adulterated," "perishable,"
21 "hazardous," "unfit," "spoiled," "damaged," and similar
22 terms, when applied to a manufactured dairy product or
23 product made in semblance or in imitation of a manufactured
24 dairy product, are as defined in ~~sections~~ sections 27-701 ~~to~~ through
25 27-723."

1 Section 5. Section 3-2498, R.C.M. 1947, is amended to
2 read as follows:

3 "3-2498. Tests and analyses -- admissibility as
4 evidence. (1) The department may require a chemist,
5 biologist, microbiologist, serologist, or other qualified
6 employee of the department of health and environmental
7 sciences or other laboratory approved by the department, to
8 test or analyze samples of milk, cream, manufactured dairy
9 products, or products made in the semblance or imitation of
10 these products.

11 (2) Any appropriate test method listed in Standard
12 Methods for the Examination of Dairy Products, current
13 edition--American Public Health Association, Inc.,--1740
14 ~~Broadway, New York, N.Y. 10049,~~ or Standard Methods for the
15 Examination of Water and Waste Water, current
16 edition--American Public Health Association, Inc.,--1790
17 ~~Broadway, New York, N.Y. 10049,~~ or the methods in the
18 Official Methods of Analysis of the Association of Official
19 Analytical Chemists, current edition as published by the
20 Association of Official Analytical Chemists, ~~Box--540,~~
21 ~~Benjamin Franklin Station, Washington 4, D.C.~~ or any other
22 appropriate tests approved by the department may be used,
23 and the results of these tests or analyses are admissible as
24 prima facie evidence of the facts disclosed, in a court,
25 hearing, or proceeding arising under this act, when

1 identified by the sample numbers and verified by the
2 department representative and analyst handling them. These
3 tests shall be designated and referred to as "official
4 tests."₁

5 Section 6. Section 3-24-122, R.C.M. 1947, is amended
6 to read as follows:

7 "3-24-122. Filled dairy products unlawful --
8 exceptions. [1] Filled dairy products resemble genuine dairy
9 products so closely that they lead themselves readily to
10 substitution for and confusion with such dairy products and
11 in many cases cannot be distinguished from genuine dairy
12 products by the ordinary consumer or ordinary laboratory
13 procedures. The manufacture, sale, exchange, purveying,
14 transportation, possession, or offering for sale or exchange
15 or purveyance of filled dairy products lends itself to
16 substitution, confusion, deception, and fraud, and ~~one which~~
17 if permitted, ~~to exist~~ tends to interfere with the orderly
18 and fair marketing of foods essential to the well-being of
19 the people of this state. It is hereby declared to be the
20 purpose of this act to:

21 (a) ~~to~~ correct, prevent, and eliminate the condition
22 above referred to;

23 (b) ~~to~~ protect the public from confusion, fraud, and
24 deception;

25 (c) ~~to~~ prohibit practices inimical to the general

1 welfare; and

2 ~~(d)~~ to promote the orderly and fair marketing of
3 essential foods.

4 ~~(1)(2) Therefore, it shall be~~ It is unlawful; in
5 ~~intrastate commerce~~

6 (a) for any person to manufacture, sell, exchange,
7 display, purvey, transport, or possess any filled dairy
8 product or to offer or expose for sale or exchange or to be
9 purveyed any such product, in intrastate commerce;

10 ~~(2)(b) It shall be unlawful~~ for any person owning or
11 operating a bakery, confectionery shop, factory, or other
12 place where food products are prepared or manufactured for
13 sale, exchange, or purveyance to the public in intrastate
14 commerce to utilize any filled dairy product as an
15 ingredient in any food product so manufactured or prepared;

16 ~~(3)(c) It shall be unlawful in intrastate commerce~~ for
17 any person knowingly to sell, exchange, purvey, transport,
18 or possess any food product in intrastate commerce in which
19 any filled dairy product is an ingredient;

20 ~~(3) provided, however, that the~~ The term "filled dairy
21 product" ~~shall not be construed to~~ does not mean or include:

22 (a) ~~oleomargarine~~ oleomargarine;

23 (b) ~~any~~ any distinctive proprietary food compound not
24 readily mistaken for a dairy product where such compound is
25 customarily used on the order of a physician and is prepared

1 and designed for medicinal or special dietary use and
2 prominently so labeled;

3 (c) ~~any~~ any frozen dessert containing animal fat
4 (other than butterfat) or vegetable fat when the container
5 is properly labeled;

6 (d) ~~any~~ any dairy product flavored with chocolate or
7 cocoa where the fats or oils other than milk fat contained
8 in such product do not exceed the amount of cacao fat
9 naturally present in the chocolate or cocoa used; or

10 (e) ~~any~~ any dairy product in which the vitamin content
11 has been increased and food oil utilized as a carrier of
12 such vitamins provided the quantity of such food oil does
13 not exceed ~~one one hundredths~~ (1/100) of ~~one per cent~~ (1%)
14 of the weight of the finished dairy product."

15 Section 7. Section 3-24-127, R.C.M. 1947, is amended
16 to read as follows:

17 "3-24-127. Pasteurization apparatus and records.
18 (1) The department may adopt rules which it considers
19 necessary to assure proper control and use of all equipment
20 used in the process of pasteurization. The department may
21 require the operation of devices and apparatus which are
22 needed to accurately record and indicate temperatures to
23 which and the length of time for which the pasteurized
24 product has been heated, including those periods and
25 temperatures when the equipment is cleaned and sanitized by

1 C.I.P. method. A person using pasteurizing equipment in this
 2 state shall properly record and have available to the
 3 department for the preceding ~~two~~(2) months all records
 4 pertaining to the pasteurization of any product. These
 5 records shall, at all times, be open to the inspection of
 6 the department, the department of health and environmental
 7 sciences, and all other state, county, and municipal
 8 officers charged with the enforcement of laws and ordinances
 9 respecting dairy products or the public health.

10 (2) Pasteurizing equipment which records temperatures
 11 or controls the time of holding shall be timed, set, and
 12 sealed by the department. The seals may not be removed or
 13 broken without first notifying the department."

14 Section 8. Section 3-24-138, R.C.M. 1947, is amended
 15 to read as follows:

16 "3-24-138. Deceit in grade, measure, or test of milk
 17 and cream unlawful. ~~A person, firm, or corporation selling~~
 18 ~~or delivering milk or cream, or receiving or purchasing milk~~
 19 ~~or cream by weight, grade or Babcock test, or either, or by~~
 20 ~~measure, grade or Babcock test, or either, may not with~~
 21 ~~intent to deceive or defraud as to the weight, grade,~~
 22 ~~measure or Babcock test thereof, manipulate, change or alter~~
 23 ~~the measure, Babcock test, grade or weight, or make or~~
 24 ~~return to a person a false or inaccurate statement of the~~
 25 ~~weight, grade, Babcock test or measure, or No person may use~~

1 a measure or grading or testing apparatus which does not
 2 comply with the standards of the department ~~or which has~~
 3 ~~been condemned as inaccurate or make any false or inaccurate~~
 4 ~~statement or otherwise deceive or defraud a producer or~~
 5 ~~other person concerning the weight, measure, butterfat~~
 6 ~~content, or other component content of milk or cream."~~

7 Section 9. Section 46-208, R.C.M. 1947, is amended to
 8 read as follows:

9 "46-208. Powers of department. The department may:
 10 (1) ~~Supervise~~ supervise the sanitary conditions of
 11 livestock in this state, under the provisions of the
 12 constitution and statutes of this state and the rules
 13 adopted by the department. The department may quarantine a
 14 lot, yard, land, building, room, premises, inclosure, or
 15 other place or section in this state, which is or may be
 16 used or occupied by livestock, and which, in the judgment of
 17 the department is infected or contaminated with an
 18 infectious, contagious, communicable, or dangerous disease,
 19 or disease-carrying medium by which the disease may be
 20 communicated. The department may quarantine livestock in
 21 this state, when the livestock is affected with, or has been
 22 exposed to disease or disease-carrying medium. The
 23 department may prescribe treatments and enforce sanitary
 24 rules which are necessary and proper to circumscribe,
 25 extirpate, control, or prevent the diseases.

1 (2) ~~Foster~~ foster, promote, and protect the livestock
 2 industry in this state by the investigation of diseases and
 3 other subjects related to ways and means of prevention,
 4 extirpation, and control of diseases, or to the care of
 5 livestock and its products, and to this end ~~to~~ may establish
 6 and maintain a laboratory, ~~and to~~ may make, or cause to be
 7 made, biologic products, curatives, and preventative
 8 agents, and ~~to do or~~ may perform any other acts and things
 9 as may be necessary or proper in the fostering, promotion,
 10 or protection of the livestock industry in this state;

11 (3) ~~Impose~~ impose and collect such fees as the
 12 department considers appropriate for the tests and services
 13 performed by the laboratory and for ~~such~~ biologic products,
 14 curatives, and preventative agents made or caused to be made
 15 by the department. In fixing ~~such~~ these fees the department
 16 shall take into consideration the costs, both direct and
 17 indirect, of ~~such~~ the tests, services, products, curatives,
 18 and agents. All fees shall be deposited in the earmarked
 19 revenue fund for the use of the animal health functions of
 20 the department.

21 (4) ~~Adopt~~ adopt rules and orders which it considers
 22 necessary or proper to prevent the introduction or spreading
 23 of infectious, contagious, communicable, or dangerous
 24 diseases affecting livestock in this state, and to this end
 25 may adopt rules and orders necessary or proper governing

1 inspections and tests of livestock intended for importation
 2 into this state, before it may be imported into this state;

3 (5) ~~Adopt~~ adopt rules and orders which it considers
 4 necessary or proper for the inspection, testing, and
 5 quarantine of all livestock imported into this state;

6 (6) ~~Adopt~~ adopt rules and orders which it considers
 7 necessary or proper for the supervision, inspection, and
 8 control of the standards and sanitary conditions of
 9 slaughterhouses, meat depots, meat and meat food products,
 10 dairies, milk depots, milk and its by-products, barns, dairy
 11 cows, factories, and other places and premises where meat,
 12 or meat foods, milk or its products, or any by-products
 13 thereof intended for sale or consumption as food are
 14 produced, kept, handled, or stored. ~~For the purposes of this~~
 15 ~~act~~ ~~as~~ An authorized representative of the department, may
 16 take samples of a product so produced, kept, handled, or
 17 stored, for analysis or testing by the ~~department's chemist,~~
 18 ~~bacteriologist, or the state chemist, and the department.~~
 19 The records of the samples and their analysis and test, when
 20 identified, as to the sample by the oath of the officer
 21 taking it, and verified, as to the analysis or test, by the
 22 oath of the chemist or bacteriologist making it, ~~is~~ are
 23 prima facie evidence of the facts set forth in ~~it,~~ them when
 24 offered in evidence in a prosecution or action at law or in
 25 equity for violation of this ~~act,~~ chapter or a rule or order

1 of the board adopted under this ~~act~~ chapter. These
 2 standards, ~~in-so-far~~ insofar as they relate to dairies or
 3 milk and its by-products, may not include standards of
 4 weight or measurement.

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

12 (8) ~~Install~~ install an adequate system of meat
 13 inspection at any time and in such places as public welfare
 14 may demand under the rules which may provide fees for the
 15 maintenance of such inspection, and which shall provide ways
 16 and means for shipping home-grown and home-killed meats into
 17 any city in this state. As far as practicable, the rules
 18 shall conform with the meat-inspection requirements of the
 19 United States department of agriculture.

20 (9) ~~Slaughter~~ slaughter or cause to be slaughtered,
 21 any livestock in this state known to be affected with, or
 22 which has been exposed to, an infectious, contagious,
 23 communicable, or dangerous disease, when such slaughter is
 24 necessary for the protection of other livestock, and
 25 destroy, or cause to be destroyed, all barns, stables,

1 sheds, ~~out-buildings~~ outbuildings, fixtures, furniture, and
 2 or personal property infected with any such infectious,
 3 contagious, communicable, or dangerous disease, when they
 4 cannot be thoroughly cleaned and disinfected and the
 5 destruction is necessary to prevent the spreading of the
 6 disease;

7 (10) ~~Indemnify~~ indemnify the owner of any property
 8 destroyed by order of the department ~~under this act~~, or
 9 pursuant to any rules ~~or orders~~ adopted by the department
 10 under this ~~act~~, chapter;

11 (11) ~~Require~~ require persons, firms, and corporations
 12 engaged in the production or handling of meat, ~~or~~ meat food
 13 products, ~~or~~ dairy products, or any by-products thereof, to
 14 furnish statistics of the quantity and cost of the food and
 15 food products produced or handled, and the name and address
 16 of persons supplying them any of the products."

17 Section 10. Section 46-211, R.C.M. 1947, is amended to
 18 read as follows:

19 "46-211. Adoption of rules. The department shall adopt
 20 and enforce rules for the inspection and tuberculin test of
 21 dairy cattle, or other animals, and for the inspection,
 22 test, treatment, or disposition of livestock affected with,
 23 or which may have been exposed to, infectious, contagious,
 24 communicable, or dangerous disease, and for the quarantines
 25 provided for in this ~~act~~ chapter."

1 Section 11. Section 46-212, R.C.M. 1947, is amended to
2 read as follows:

3 "46-212. Establishment of livestock disease control
4 area -- entry into area -- compulsory inspection area, when.

5 (1) Upon receipt of a petition signed by not less than
6 ~~seventy-five-per-cent (75%)~~ of the livestock owners of the
7 species of animals to be inspected, tested, treated, or
8 vaccinated, and representing not less than ~~fifty-per-cent~~
9 ~~(50%)~~ of such species in any school district, as determined
10 from the permanent records of the board of county
11 commissioners describing school district boundaries, of any
12 county in the state of Montana, petitioning for the area
13 control, treatment, prevention, or eradication of any
14 dangerous disease of livestock within such school district,
15 the Montana board of ~~livestock is authorized and empowered~~
16 ~~to~~ may establish such school district as a disease control
17 area and ~~to~~ may enforce the inspection, test, treatment, or
18 vaccination of all livestock of the species designated
19 within such school district in accordance with the rules and
20 regulations promulgated by the Montana department of
21 ~~livestock~~ for the inspection, eradication, treatment, or
22 vaccination of such livestock and ~~to~~ may reimburse the
23 owners of livestock slaughtered by order of the Montana
24 department of ~~livestock~~ or its authorized agent in
25 accordance with the laws of Montana governing the payment of

1 such animal or animals.

2 (2) ~~Provided that in~~ In any circumscribed disease
3 control area as established under this ~~act~~, section by the
4 Montana department of ~~livestock~~, no other livestock of the
5 species designated by the Montana department of ~~livestock~~ to
6 be inspected, tested, treated, or vaccinated, ~~shall~~ may
7 enter the disease control area unless inspected, tested,
8 treated, or vaccinated under the direction of the Montana
9 department of ~~livestock~~ or ~~are~~ accompanied by a satisfactory
10 health certificate or except under special permit and
11 restrictions provided by the Montana department of
12 ~~livestock~~.

13 (3) ~~Provided further that when seventy-five-per-cent~~
14 ~~when (75%)~~ or more of the school districts in any county in
15 Montana are established under this ~~act~~ section by the
16 Montana department of ~~livestock~~ as disease control areas, it
17 becomes mandatory on the part of the remaining livestock
18 owners in such county to submit their livestock of one or
19 more species for inspection, test, treatment, or
20 vaccination, as directed by the Montana department of
21 ~~livestock~~."

22 Section 12. Section 46-217, R.C.M. 1947, is amended to
23 read as follows:

24 "46-217. Authority of municipal corporations. This ~~act~~
25 chapter does not prevent the governing authority of a

1 municipal corporation from enacting or enforcing ordinances
 2 for the inspection of slaughterhouses, meat depots, meat
 3 markets, meat food products, creameries, butter or cheese
 4 factories, dairies, ~~and~~ or dairy products, located, sold, or
 5 offered for sale in the limits of the municipal corporation.
 6 An ordinance may not be enforced in conflict with the powers
 7 of this ~~act~~ chapter delegated to the department, and its
 8 officers, or agents."

9 Section 13. Section 46-218, R.C.M. 1947, is amended to
 10 read as follows:

11 "46-218. Classification of animals as to compensation
 12 for slaughter. Animals, slaughtered under the direction of
 13 the department by order of the board, ~~under this act~~, are
 14 divided into two classes for the purposes of compensation:

15 (1) Animals determined by the department to be
 16 affected with an incurable disease, which are destroyed by
 17 order of the board, are designated as animals of class 1,
 18 and unless otherwise provided each of the animals shall be
 19 paid for on the basis of ~~seventy-five per cent (75%)~~ of its
 20 appraised value. The county in which the animal was owned at
 21 the time it was determined to be affected with an incurable
 22 disease, is liable in part, as later provided, for an
 23 indemnity to be paid for the animal. The ownership and
 24 county are determined by an affidavit of the owner of the
 25 animal or his agent. Each animal directed to be destroyed

1 shall be appraised by a representative or an authorized
 2 agent of the department with the owner agreeing in writing
 3 as to the value of the animal. When appraised, due
 4 consideration shall be given to its breeding value as well
 5 as its dairy or meat value and the condition of the animal
 6 as to the disease and the present and probable effect of the
 7 disease on the animal. In the absence of an agreement, there
 8 shall be appointed three ~~(3)~~ competent, disinterested
 9 parties, one appointed by the department, one by the owner,
 10 and a third by the first two, to appraise each animal,
 11 ~~taking into consideration its breeding value as well as its~~
 12 ~~dairy or meat value and the condition of the animal as to~~
 13 ~~the disease and the present probable effect of the disease~~
 14 ~~on the animal, TAKING INTO CONSIDERATION ITS BREEDING VALUE~~
 15 ~~AS WELL AS ITS DAIRY OR MEAT VALUE AND THE CONDITION OF THE~~
 16 ~~ANIMAL AS TO THE DISEASE AND THE PRESENT PROBABLE EFFECT OF~~
 17 ~~THE DISEASE ON THE ANIMAL.~~ The judgment of the majority is
 18 the judgment of the appraisers and is binding on both
 19 parties as the final determination of indemnity to be paid
 20 for each animal. The total compensation of each group of
 21 appraisers is limited to ~~five dollars (\$5)~~ for the group
 22 appraisal, one-half ~~(1/2)~~ of which shall be paid by the
 23 department. The total amount of indemnity paid by the state
 24 and a county for an animal may not exceed the actual sound
 25 value of an animal of its class, and the total combined

1 amount of indemnity paid for the animal by the state and a
 2 county may not exceed the sum of ~~one hundred dollars~~ ~~(\$100)~~
 3 for a registered purebred animal or the sum of ~~fifty dollars~~
 4 ~~(\$50)~~ for a grade animal. Animals presented for appraisal as
 5 purebreds shall be accompanied by their registration papers
 6 at the time of appraisal or they shall be appraised as
 7 grades. If purebreds are less than ~~three~~ ~~(3)~~ years old and
 8 not registered, the department may grant a reasonable time
 9 for their registration and presentation of their
 10 registration papers to the appraiser. Registration papers
 11 shall accompany the claim for indemnity.

12 (2) Animals of class 1 shall be paid for on the basis
 13 of their full appraised value as determined in this section
 14 if no evidence of incurable disease is disclosed by autopsy,
 15 bacteriologic, serologic, microscopic, or other findings.
 16 The total combined amount of indemnity paid by the state and
 17 a county for an animal may not exceed the actual sound value
 18 of an animal of its class. The total combined amount of
 19 indemnity paid by the state and a county for the animal may
 20 not exceed ~~one hundred dollars~~ ~~(\$100)~~ for a registered
 21 purebred animal or ~~fifty dollars~~ ~~(\$50)~~ for a grade animal.

22 (3) Animals which are determined by the department to
 23 be affected with or exposed to foot-and-mouth disease,
 24 rinderpest, contagious pleura pneumonia, surra, or other
 25 ~~infectious-contagious~~ infectious, contagious, communicable,

1 or dangerous disease, which is not of its nature necessarily
 2 fatal, and are destroyed by order of the department as a
 3 sanitary safeguard, are designated as animals of class 2 and
 4 each animal shall be paid for on the basis of its full
 5 appraised value. The appraised value shall be determined in
 6 the manner set out in subsection (1) of this section. The
 7 appraisal of the animals shall be based on the meat, dairy,
 8 or breeding value of the animal, but where appraisal is
 9 based on breeding value of the animal, no appraisal may
 10 exceed three ~~(3)~~ times its meat or dairy value. The total
 11 amount of indemnity paid by the state for an animal may not
 12 exceed the actual sound value of an animal in its class,
 13 ~~and no~~ No indemnity for a class 2 animal may be paid by a
 14 county. In the case of destruction of an animal afflicted
 15 with brucellosis (Bang's disease), no indemnity shall be
 16 paid for the animal, unless the board, in its discretion,
 17 determines the best interests of this state will be served
 18 by payment of an indemnity. In this event, the board shall
 19 set out standards of indemnity by rules, and may not pay in
 20 excess of ~~one hundred dollars~~ ~~(\$100)~~ for a registered
 21 purebred animal, or ~~fifty dollars~~ ~~(\$50)~~ for a grade animal.
 22 In all cases where the federal government, or agency other
 23 than the state, compensates the owner in whole or in part
 24 for livestock destroyed as a sanitary safeguard, the amount
 25 of compensation from the state shall be determined under

1 section 46-229.

2 (4) Animals which are injured or killed while they are
3 being inspected or tested under an order of the department
4 or its agent, ~~and if the animals which~~ do not come within
5 either class 1 or class 2, may be paid for at their full
6 appraised value, if the claim for the animal is recommended
7 for payment at a meeting of the department board. Where it
8 is shown that the injury or death of the animal was not
9 proximately due to the negligence of the owner or his agent,
10 the whole claim, when approved, shall be paid out of
11 department funds. The limit of indemnity for an animal paid
12 for by the state may not exceed that fixed by this ~~act~~
13 section for animals of class 2."

14 Section 14. Section 46-220, R.C.M. 1947, is amended to
15 read as follows:

16 "46-220. Indemnity -- from what funds paid. In payment
17 for animals or property destroyed by order of the
18 department, the state shall pay one-half ~~(1/2)~~ of the
19 indemnity out of the money at the disposal of the
20 department. The county liable in part for the indemnity, ~~as~~
21 ~~determined by this act,~~ shall pay one-half ~~(1/2)~~ of the
22 total indemnity out of the general fund of the county."

23 Section 15. Section 46-224, R.C.M. 1947, is amended to
24 read as follows:

25 "46-224. Examination and payment of claims. Claims

1 against the state arising under this ~~act~~ chapter, if found
2 correct, shall be processed and paid from funds of the
3 department."

4 Section 16. Section 46-226, R.C.M. 1947, is amended to
5 read as follows:

6 "46-226. Sale of condemned carcasses -- disposal of
7 proceeds. Where the carcass of an animal ordered destroyed
8 under this ~~act~~ chapter is found, on official ~~post-mortem~~
9 postmortem inspection, to be fit for human consumption, the
10 owner shall receive the net proceeds from the sale of the
11 carcass. The proceeds shall be deducted from his claim
12 against the state and county for the slaughter. A
13 representative of the department, say, when considered
14 advisable or necessary or when it is desired by the owner,
15 sell the carcass on terms he considers to be in the best
16 interests of this state, and the net proceeds obtained from
17 the sale shall be paid to the owner. This procedure does not
18 invalidate the owner's claim for indemnity for any balance
19 due him."

20 Section 17. Section 46-228, R.C.M. 1947, is amended to
21 read as follows:

22 "46-228. Persons entitled to indemnity. ~~(1)~~ The owner
23 of an animal or property destroyed under this ~~act,~~ chapter
24 is entitled to indemnity, except in the following cases:

25 ~~(1)(a) animals~~ animals belonging to the United

1 States;

2 ~~(2) (b)~~ Animals animals brought into this state which
 3 violate this ~~act~~, Chapter or rules of the department;

4 ~~(3) (c)~~ Animals animals which the owner or claimant
 5 knew to be diseased, or had notice of the disease at the
 6 time they came into his possession;

7 ~~(4) (d)~~ Animals animals which had the disease for which
 8 they were slaughtered, or which were destroyed because of
 9 exposure to the disease, at the time of their arrival in
 10 this state. However, ~~as a class 2 animal of the second class~~
 11 shipped into this state under department rules and
 12 accompanied by the proper certificate of health from a
 13 recognized state or federal veterinarian may be paid for
 14 when payment is authorized by the department.

15 ~~(5) (e)~~ Animals animals which have not been in this
 16 state for at least ~~one hundred and twenty~~ {120} days before
 17 the discovery of the disease; however, class 2 animals of
 18 ~~the second class~~ which have not been in the state ~~one~~
 19 ~~hundred and twenty~~ {120} days may be paid for when payment
 20 is authorized by the department;

21 ~~(6) (f)~~ When when the owner or agent has not used
 22 reasonable diligence to prevent disease or exposure to
 23 disease;

24 ~~(7) (g)~~ When when the owner or agent has not complied
 25 with the rules of the department with respect to animals

1 condemned;

2 ~~(8) No compensation or indemnity will be paid for the~~
 3 ~~destruction of livestock affected with tuberculosis, or~~
 4 ~~other infectious, contagious, communicable, or dangerous~~
 5 ~~disease, unless the entire herd or band of affected~~
 6 ~~livestock is under the supervision of the department for the~~
 7 ~~eradication of the disease.~~

8 ~~(9) (h) When when~~ animals condemned are not destroyed
 9 within ~~sixty~~ {60} days after they are determined to be
 10 affected with or exposed to a disease which requires them to
 11 be destroyed by order of the department.

12 (2) No compensation or indemnity will be paid for the
 13 destruction of livestock affected with tuberculosis or other
 14 infectious, contagious, communicable, or dangerous disease
 15 unless the entire herd or band of affected livestock is
 16 under the supervision of the department for the eradication
 17 of the disease."

18 Section 18. Section 46-230, R.C.M. 1947, is amended to
 19 read as follows:

20 "46-230. Expenses, how paid — lien and foreclosure.
 21 The expense of inspecting, testing, supervision of
 22 quarantine, supervision of dipping, supervision of
 23 disinfection, and supervision of other treatment of
 24 livestock by the department, ~~under this act~~, and the
 25 sanitary inspection of dairies, packing houses, meat depots,

1 slaughterhouses, milk depots, and other premises ~~under this~~
 2 ~~act~~, shall be paid for by the department. However, the owner
 3 of the livestock or property is liable for all expenses,
 4 except the salary of the supervising officer, representing
 5 the department, when the owner, agent, or person in charge
 6 of the livestock or property has violated the rules of the
 7 department. These expenses are a lien on the livestock or
 8 other property, and the department may retain possession of
 9 the livestock until the charges and expenses are paid. The
 10 lien is not dependent on possession, and ~~the lien~~ may be
 11 foreclosed in the name of the agent of the department by
 12 sale of the stock, or as many as may be necessary to pay the
 13 sum of the costs, ~~by sale at public auction, after and ten~~
 14 ~~(10)~~ days' notice by posting in three ~~(3)~~ public places in
 15 the county. The lien may also be foreclosed by an action in
 16 a court of competent jurisdiction against the owner of the
 17 livestock to recover the amount of charges and expenses."

18 Section 19. Section 46-232, R.C.M. 1947, is amended to
 19 read as follows:

20 "46-232. Licensing of milk plants and dairies selling
 21 milk or cream for public consumption. (1) It is unlawful
 22 for the following businesses to operate in this state
 23 without first obtaining a license from the department of
 24 livestock:

25 (a) ~~a~~ a dairy selling milk or cream for public

1 consumption in the form in which it is originally produced;

2 (b) ~~Condensed~~ a condensed, evaporated, or powdered
 3 milk plant;

4 (c) ~~Fluid~~ a fluid milk plant. A fluid milk plant is a
 5 place where milk or cream is not produced but is purchased
 6 or collected and prepared for distribution to the consumer
 7 in liquid form ~~but is not produced at this place.~~

8 (2) A license expires on December 31 of the year
 9 issued. The department may, following the procedures in the
 10 Montana Administrative Procedure Act [~~82-4204 to 82-4225~~],
 11 deny, suspend, or revoke a license when it determines that a
 12 person to whom the license is issued has failed to comply
 13 with the rules of the department or has failed to conduct
 14 his establishment in a sanitary manner. All license fees
 15 collected shall be deposited into the general fund.

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

25 (4) The following license fees are charged for

1 licenses issued under this section:

2 (a) ~~Condensed~~ condensed, evaporated, or powdered milk

3 factory, ~~fifty-dollars-(\$50)+;~~

4 (b) ~~Fluid~~ fluid milk plant, ~~fifty-dollars-(\$50)+;~~

5 (c) ~~Dairy~~ dairy, ~~five-dollars-(\$5).~~

6 (5) ~~A~~ a person violating this ~~act~~ section is guilty of

7 a misdemeanor."

8 Section 20. Section 46-233, R.C.M. 1947, is amended to

9 read as follows:

10 "46-233. Exceptions of certain producers of meats and

11 dairy products. The owners or operators of slaughterhouses,

12 packing houses, meat depots, dairies, creameries, butter

13 factories, cheese factories, or other places of business

14 engaged in the production, storage, or transportation of

15 meats, meat foods, or dairy products, are not required to

16 procure a license from the department of health and

17 environmental sciences, ~~in-so-far~~ insofar as the business of

18 production, storage, or transportation of these food

19 products ~~are~~ is concerned. This ~~act~~ section does not limit

20 the supervision or regulation of the sanitary condition of a

21 restaurant, hotel, boardinghouse, or retail market, or the

22 products sold or offered for sale thereat, by the department

23 of health and environmental sciences, nor does this ~~act~~

24 section limit the duties imposed by law on the department of

25 health and environmental sciences to make sanitary rules for

1 the eradication or control of an epidemic of human disease

2 which may exist in a community."

3 Section 21. Section 46-234, R.C.M. 1947, is amended to

4 read as follows:

5 "46-234. ~~Co-operation~~ Cooperation by public officers.

6 The ~~state~~ department of health and environmental sciences,

7 the board of health and environmental sciences, and local

8 boards of health of a county, city, ~~or town,~~ or village

9 shall cooperate with and assist the department of livestock

10 in matters which relate to the execution of its sanitary

11 powers regarding livestock and their food products under

12 this ~~act,~~ chapter in the manner which the department of

13 livestock prescribes, either by general rule or direct

14 order."

15 Section 22. Section 46-235, R.C.M. 1947, is amended to

16 read as follows:

17 "46-235. Slaughterhouse license -- fees and renewals.

18 It is unlawful for a person, firm, or corporation to

19 maintain or conduct a slaughterhouse, meat packing house, or

20 meat depot in this state without having a license issued by

21 the department. The annual fee for a ~~license~~ license issued

22 under this section is ~~one-dollar-(\$1)~~ and shall be paid into

23 the general fund. All licenses expire on December 31, of the

24 year in which they are issued, and shall be renewed by the

25 department on request of the licensee. However, when the

1 department finds that the place for which the license is
 2 issued is not conducted in accordance with the rules and
 3 orders of the board, made under ~~this act~~ 46-208, ~~then~~ the
 4 department shall revoke the license and may not renew it
 5 until the place is in a sanitary condition in accordance
 6 with department rules."

7 Section 23. Section 46-238, R.C.M. 1947, is amended to
 8 read as follows:

9 "46-238. Penalty for violation ~~of act~~. Any person,
 10 persons, firm, or corporation violating any provision of
 11 this ~~act~~ chapter, or the rule, ~~regulation~~, or order
 12 promulgated by authority of same, shall be guilty of a
 13 misdemeanor, ~~violations~~ Violations of this ~~act~~ chapter
 14 shall be tried without undue delay in any court of competent
 15 jurisdiction."

16 Section 24. Section 46-239, R.C.M. 1947, is amended to
 17 read as follows:

18 "46-239. ~~Same—civil~~ Civil liability. A person,
 19 firm, or corporation who violates this ~~act~~ chapter or rules
 20 or orders of the department is liable for damages sustained
 21 by a person because of the violation. The damages may be
 22 recovered by the person in a civil action in a court of
 23 competent jurisdiction."

24 Section 25. Section 46-243, R.C.M. 1947, is amended to
 25 read as follows:

1 "46-243. Personal liability — of members and officers
 2 of department. No member of the department is personally
 3 liable for damage resulting from his official acts or
 4 decisions under this ~~act~~, chapter or a rule, or order
 5 adopted under this ~~act~~ chapter, unless it is for his own
 6 willful wrong or gross negligence."

7 Section 26. Section 46-248, R.C.M. 1947, is amended to
 8 read as follows:

9 "46-248. Penalty ~~for violation of act~~. Any person
 10 guilty of violating ~~this act shall be~~ 46-247 is guilty of a
 11 misdemeanor and upon conviction ~~shall be~~ is punishable by a
 12 fine not exceeding ~~five hundred dollars~~, \$500 or by
 13 imprisonment in the county jail not exceeding ~~one~~ 1 year, or
 14 by both fine and imprisonment."

15 Section 27. Section 46-605, R.C.M. 1947, is amended to
 16 read as follows:

17 "46-605. Designation of years for ~~re-recording~~
 18 re-recording brands. Each ~~tenth~~ 10th year after 1921 is the
 19 year for ~~re-recording~~ re-recording artificial marks and
 20 brands used to distinguish and identify the ownership of
 21 domestic animals and livestock. The department shall, on the
 22 application of a person, firm, or corporation, or the
 23 transferee of the person, firm, or corporation, made in a
 24 year which is a year for ~~re-recording~~ re-recording marks and
 25 brands, ~~to re-record~~ re-record a mark or brand which at the

1 time of the application stands of record in the department
 2 in the name of the person, firm, or corporation. A mark or
 3 brand which was not originally recorded or ~~re-recorded~~
 4 re-recorded in the name of the person, firm, or corporation,
 5 during the ~~re-recording~~ re-recording year last preceding the
 6 date when the application is filed, or originally recorded
 7 in the name of the person, firm, or corporation, or his or
 8 its predecessor or predecessors in interest between the time
 9 of the application and the ~~re-recording~~ re-recording year
 10 last preceding the application, is not of record in the
 11 department."

12 Section 28. Section 46-808, R.C.M. 1947, is amended to
 13 read as follows:

14 "46-808. Removal of livestock from state without
 15 inspection — penalty — exception. Any person, other than
 16 the owner, or his agent or employee, who, without consent of
 17 the owner, removes or causes to be removed from this state
 18 any cow, ox, bull, stag, calf, steer, heifer, horse, mule,
 19 mare, colt, foal, or filly, without having the same
 20 inspected where such inspection is required by law ~~shall be~~
 21 is guilty of a felony and shall be punished by a fine of not
 22 more than ~~two thousand dollars (\$2,000.00)~~, or by
 23 imprisonment in the state prison for a term of not more than
 24 ~~three~~ {3} years, or by both such fine and imprisonment;
 25 ~~provided, however, that the~~ The provisions of this section

1 ~~shall do~~ not apply to any person who removes from this state
 2 any animal specified by this section, for the purpose of
 3 obtaining emergency treatment for such animal by a licensed
 4 veterinarian, ~~excluded from this act."~~

5 Section 29. Section 46-903, R.C.M. 1947, is amended to
 6 read as follows:

7 "46-903. Quarantine of diseased animals — ownership
 8 of animals to be determined — proceeds from sale of stock
 9 of unknown owner. If the livestock inspector at a sale ~~finds~~
 10 finds any livestock afflicted with an infectious or
 11 contagious disease, he shall immediately take possession of
 12 the livestock and place them in quarantine, to be disposed
 13 of as directed by the department. If there is any question
 14 respecting the ownership of livestock sold, the livestock
 15 inspector may take possession of the livestock. The
 16 livestock inspector shall notify the person in charge of the
 17 market and conducting the sales, and the person who has
 18 purchased the livestock at the sale, within a reasonable
 19 time. Where livestock is sold, the ownership of which is
 20 not known or cannot be determined by the livestock
 21 inspector, they may be sold as strays, and the net proceeds
 22 derived from the sale shall be ~~sent to the department to be~~
 23 ~~held and kept, together with a complete description of the~~
 24 ~~livestock and the brands of the livestock. The money shall~~
 25 ~~be held and retained by the department for the use and~~

1 ~~benefit of the owner of the livestock and paid to the owner~~
 2 ~~when ownership has been satisfactorily determined handled in~~
 3 ~~the same manner as provided in 96-918. If the proceeds of~~
 4 ~~the sale sent to the department are not claimed by the~~
 5 ~~lawful owner of the livestock within two (2) years from the~~
 6 ~~date of the receipt of the proceeds, the money shall be held~~
 7 ~~and disposed as provided in section 46-904 ~~proceeds state~~~~
 8 ~~property and be placed to the credit of the earmarked~~
 9 ~~revenue fund for the use of the department."~~

10 Section 30. Section 46-906, R.C.M. 1947, is amended to
 11 read as follows:

12 "46-906. Definitions. Unless the context requires
 13 otherwise, in this act chapter:

14 (1) "livestock livestock" means and includes horses,
 15 mules, cattle, swine, sheep, and goats;

16 (2) "Person person" means a person, ~~co~~partnership
 17 partnership, association, or corporation;

18 (3) "Board board" means the board of livestock
 19 provided for in ~~section~~ 82A-1303;

20 (4) "Certificate certificate" means the certificate of
 21 public convenience and necessity authorized to be issued
 22 under this act chapter;

23 (5) "Commission commission basis" means the
 24 compensation or charge imposed on the owner of livestock for
 25 the services rendered the owner by the operator of the

1 livestock market;

2 (6) "Livestock livestock market" means a place where a
 3 person assembles livestock for either private or public sale
 4 by him and the service is compensated for by the owner, on a
 5 commission basis or otherwise, except:

6 (a) A a place used solely for a dispersal sale of the
 7 livestock of a farmer, dairyman, livestock breeder, or
 8 feeder who is discontinuing business and no other livestock
 9 is sold there or offered for sale;

10 (b) A a farm, ranch, or place where livestock either
 11 raised or kept thereon for the grazing season or for
 12 fattening is sold, and no other livestock is brought there
 13 for sale or offered for sale;

14 (c) ~~The~~ the premises of a butcher, packer, or processor
 15 who ~~received~~ receives animals exclusively for immediate
 16 slaughter;

17 (d) ~~The~~ the premises of a person engaged in the raising
 18 of livestock for breeding purposes only, who limits his sale
 19 to livestock of his own production;

20 (e) A a place where a breeder or an association of
 21 breeders of livestock of any class assemble and offer for
 22 sale and sell under his or their own management any
 23 livestock, when the breeder or association of breeders
 24 assumes all responsibility for the sale and the title of
 25 livestock sold;

1 (7) "~~Off-premise off-premises~~ sale" means the sale of
 2 livestock by a livestock market ~~licensed for which a~~
 3 ~~certificate has been issued~~ under this chapter at a place
 4 other than the one at which the ~~licensee livestock market~~
 5 conducts ~~his its~~ usual livestock market operation;

6 (8) "~~Test test~~ station sale" means the sale of
 7 livestock from a place where livestock ~~are is~~ taken to
 8 measure rates of gain under uniform feeding conditions, when
 9 that place is not owned by the owner of the livestock."

10 Section 31. Section 46-906.1, R.C.M. 1947, is amended
 11 to read as follows:

12 "46-906.1. Board regulation of certain types of
 13 nonmarket sales of livestock. (1) ~~Any~~ Each person, not a
 14 livestock market operator ~~licensed~~ authorized under this
 15 chapter, conducting the sale of livestock in a breed sale,
 16 ~~or~~ a breed association sale, or at a test station sale,
 17 except when all of the livestock are his and are being sold
 18 from his own place, shall obtain approval from the board
 19 before conducting the sale.

20 (2) The board, as conditions to granting approval, may
 21 require:

22 (a) the names and addresses of those conducting the
 23 sale;

24 (b) the date, time, and place where the sale will be
 25 conducted;

1 (c) a detailed statement of the assets and liabilities
 2 of the persons conducting the sale;

3 (d) the establishment of a custodial account into
 4 which all moneys received as purchase for the sale of
 5 livestock must be deposited;

6 (e) the posting of reasonable bond, in an amount
 7 determined by the board;

8 (f) the commissions or charges proposed to be imposed
 9 on the owners of livestock for services rendered to them
 10 associated with the sale;

11 (g) a guarantee to pay all consignors in full within a
 12 reasonable time as set by the board;

13 (h) such other information as the board considers
 14 necessary."

15 Section 32. Section 46-907, R.C.M. 1947, is amended to
 16 read as follows:

17 "46-907. Regulation of livestock markets. The board
 18 shall:

19 (1) ~~Supervise~~ supervise and regulate livestock markets
 20 in this state;

21 (2) regulate the properties, facilities, operations,
 22 services, and practices of all livestock markets;

23 (3) supervise and regulate livestock markets in all
 24 matters affecting the relationship between the operators and
 25 owners of livestock, and between the operators and

1 purchasers of livestock, at the markets;

2 (4) prescribe by general order, or otherwise, rules in
3 conformity with this ~~act~~ chapter applicable to all livestock
4 markets, and not in conflict with the laws of the United
5 States or ~~rules--and~~ regulations of the United States
6 department of agriculture or other federal agencies."

7 Section 33. Section 46-907.1, R.C.M. 1947, is amended
8 to read as follows:

9 "46-907.1. Occasional ~~off-premise~~ off-premises sales
10 may be authorized. (1) The board may authorize occasional
11 ~~off-premise~~ off-premises sales by ~~licensed~~ authorized
12 livestock markets and may establish the conditions under
13 which approval for an ~~off-premise~~ off-premises sale may be
14 granted, including any change in bonding requirements the
15 board considers necessary.

16 (2) No livestock market ~~licensed~~ for which a
17 certificate has been issued under this chapter may conduct
18 an ~~off-premise~~ off-premises sale without obtaining prior
19 approval of the board."

20 Section 34. Section 46-908, R.C.M. 1947, is amended to
21 read as follows:

22 "46-908. Certificate to operate livestock market
23 required -- application, contents of -- fee. (1) A person
24 may not operate a livestock market in this state without
25 first obtaining from the board, under this ~~act~~ chapter, a

1 certificate declaring that public convenience and necessity
2 require the operation. A person making application for a
3 certificate shall do so in writing, verified by the
4 applicant, and specifying the following:

5 (1) (a) The the name and address of the applicant, and
6 the names and addresses of its officers, if any;

7 (2) (b) The the place where the applicant proposes to
8 operate a livestock market;

9 (3) (c) A complete and detailed description of the
10 property and facilities proposed to be used in connection
11 with the livestock market;

12 (4) (d) The the commissions or charges applicant
13 proposes to impose on the owners of livestock for services
14 rendered to them by applicant in the operation of the
15 livestock market;

16 (5) (e) A detailed statement showing the assets and
17 liabilities of the applicant;

18 (6) (f) The the location of other livestock markets
19 within a radius of ~~two hundred~~ (200) miles of the proposed
20 livestock market, and the names and addresses of the
21 operators thereof;

22 (7) (g) A detailed statement of the facts upon which
23 the applicant relies showing public convenience and
24 necessity for the livestock market, including the
25 anticipated revenue from inspection fees that may be derived

1 therefrom by ~~this~~ the state;

2 ~~(1)(h)~~ ~~for~~ any additional information the board may
3 require.

4 ~~(1)(2)~~ The application shall be accompanied by a fee
5 of ~~one hundred dollars~~ ~~(\$100)~~, which shall also be
6 considered the first annual fee if the application is
7 granted; however, the annual fee shall be paid on the
8 following May 1 and each year thereafter, as provided
9 herein."

10 Section 35. Section 46-910, E.C.M. 1947, is amended to
11 read as follows:

12 "46-910. Livestock markets licensed — grounds of
13 discontinuance. If after a hearing in the manner provided in
14 this ~~act~~ chapter it appears to the board that a livestock
15 market licensed for which a certificate has been issued
16 under this ~~act~~ chapter has, for a period of ~~two~~ ~~(2)~~
17 successive years, failed to provide the minimum revenue to
18 the state as provided in this ~~act~~ chapter, the livestock
19 market may be discontinued by order of the board."

20 Section 36. Section 46-911, E.C.M. 1947, is amended to
21 read as follows:

22 "46-911. ~~License—fee~~ Fee. A person operating a
23 livestock market in this state shall pay on May 1, annually,
24 a ~~license~~ fee of ~~one hundred dollars~~ ~~(\$100)~~ to the board.
25 All fees under this ~~act~~ chapter shall be paid into the state

1 treasury, and placed by the state treasurer to the credit of
2 the earmarked revenue fund for the use of the board."

3 Section 37. Section 46-912, E.C.M. 1947, is amended to
4 read as follows:

5 "46-912. Bond required — conditions. (1) Every person
6 operating a livestock market in this state shall provide a
7 bond in favor of this state, upon a form and with surety to
8 be approved by the board, in the minimum penal sum of ~~ten~~
9 ~~thousand dollars~~ ~~(\$10,000)~~ or such greater sum as the board
10 may determine, conditioned upon:

11 ~~(1)(a)~~ (a) the payment immediately upon the sale of the
12 livestock of all money received, less reasonable expenses
13 and commissions, by the ~~licensee and operator of the~~
14 livestock market to the rightful owner of livestock so
15 consigned and delivered to ~~the licensee~~ it for sale;

16 ~~(2)(b)~~ (b) the payment of the minimum fees as provided by
17 ~~section~~ 46-909; and,

18 ~~(3)(c)~~ (c) a full compliance with this ~~act~~ chapter,
19 including all rules adopted under this ~~act~~ chapter.

20 (2) When approved the bond shall be filed with the
21 board.

22 (3) Actions of law may be brought in the name of the
23 state upon the bond for the use and benefit of a person who
24 suffers loss or damage from violations thereof, and may be
25 brought by the person suffering loss or damage in the county

1 of his residence."

2 Section 38. Section 46-913, R.C.M. 1947, is amended to
3 read as follows:

4 "46-913. Records kept by ~~licensees~~ livestock markets.
5 Each ~~licensee~~ livestock market shall keep accounts, records,
6 and memoranda, and shall make reports, which the board
7 requires, and the board and its authorized agents and
8 employees shall at all times have access to the accounts,
9 records, and memoranda for inspection and examination."

10 Section 39. Section 46-915, R.C.M. 1947, is amended to
11 read as follows:

12 "46-915. Cancellation or suspension of certificates --
13 grounds. ~~Finding by the board that a licensee~~ The board may
14 cancel or suspend the certificate of an operator of a
15 livestock market if it finds that the operator has:

16 ~~(a)~~ (1) has been guilty of fraud or misrepresentation
17 as to the titles, charges, number, brands, weights, proceeds
18 of sale, or ownership of livestock;

19 ~~(b)~~ (2) has violated any of the provisions of this act
20 chapter;

21 ~~(c)~~ (3) has violated any of the rules adopted and
22 published by the board;

23 ~~(d)~~ (4) has violated sections 46-801 through 46-806;
24 or

25 ~~(e)~~ (5) has violated any of the conditions of the bond,

1 as provided by this ~~act~~ chapter, ~~is sufficient cause for the~~
2 ~~cancellation or suspension of the certificate of the~~
3 ~~offending operator of the livestock market."~~

4 Section 40. Section 46-916, R.C.M. 1947, is amended to
5 read as follows:

6 "46-916. Investigation of actions of ~~licensees~~
7 livestock markets -- hearing of complaints -- additional
8 powers and duties of members of board or agents --
9 witnesses. (1) ~~the~~ When considered necessary, the board or
10 any member or agent of the board, may upon a motion, or upon
11 a verified complaint in writing ~~of a person, when considered~~
12 ~~necessary,~~ may investigate the actions of a ~~licensee,~~
13 livestock market and, if found proper to do so, shall file a
14 complaint against the ~~licensee~~ livestock market with the
15 board. The complaint shall be set for hearing before the
16 board upon ~~ten~~ (10) days' notice served upon the ~~licensee~~
17 livestock market.

18 (2) Any investigation, inquiry, or hearing which the
19 board may undertake or hold, under this ~~act~~, chapter may be
20 undertaken or held by or before any board member or by or
21 before any agent or examiner of the board designated for
22 that purpose by the board. A finding, order, or decision
23 made by a board member or agent or examiner of the board so
24 designated, pursuant to the investigation, inquiry, or
25 hearing, when approved and confirmed by the board and

1 ordered filed in its office, is considered the finding,
2 order, or decision of the board. An agent or examiner of the
3 board may administer oaths, examine witnesses, and receive
4 evidence."

5 Section 41. Section 46-917, R.C.M. 1947, is amended to
6 read as follows:

7 "46-917. Appeal by ~~licensee~~ livestock market or
8 applicant for certificate -- bond -- procedure. An appeal of
9 a decision of the board for refusing to grant an application
10 for a certificate or suspending or revoking a certificate of
11 a ~~licensee~~ livestock market shall be taken to the district
12 court of the county in which the proposed livestock market
13 is to be located or in which the ~~licensee~~ authorized
14 livestock market has ~~his~~ its principal place of business.
15 The appellant shall file a bond with the clerk of the
16 district court in the sum of ~~three hundred dollars~~ (\$300) to
17 be approved by the judge of the court, conditioned to pay
18 all costs that may be awarded against the appellant in the
19 event of an adverse decision or the decision of the board
20 being affirmed. The cost of preparing transcripts shall be
21 paid by appellant. In case of suspension or revocation of a
22 certificate, the filing of the notice and bond shall stay
23 the order of the board until the final determination of the
24 appeal. If the appellant fails to perfect ~~his~~ the appeal the
25 stay shall automatically terminate."

1 Section 42. Section 46-920, R.C.M. 1947, is amended to
2 read as follows:

3 "46-920. Penalties ~~for violating act~~. A person who
4 violates any provisions of this ~~act~~ chapter or rules adopted
5 by the board under this ~~act~~, chapter is guilty of a
6 misdemeanor and upon conviction shall be fined not less than
7 ~~one hundred dollars~~ (\$100) ~~or~~ or more than ~~six hundred~~
8 ~~dollars~~ (\$600), ~~or~~ or imprisoned in the county jail not less
9 than ~~thirty~~ (30) days ~~or~~ or more than ~~six~~ (6) months, or
10 both fined and imprisoned. A person who has been convicted
11 of a violation of this ~~act~~ chapter and who subsequently is
12 found guilty of a another violation of this ~~act~~ chapter
13 shall be fined not less than ~~two hundred dollars~~ (\$200) ~~or~~
14 or more than ~~one thousand dollars~~ (\$1,000), ~~or~~ or imprisoned in
15 the county jail for not less than ~~three~~ (3) months ~~or~~ or
16 more than ~~six~~ (6) months, or both fined and imprisoned. A
17 second conviction requires the board to suspend or cancel
18 the certificate of the person without a hearing, and the
19 person may not again be granted a certificate for a period
20 of ~~one~~ (1) year."

21 Section 43. Section 46-921, R.C.M. 1947, is amended to
22 read as follows:

23 "46-921. Jurisdiction of district courts. The district
24 courts shall have original jurisdiction in all criminal
25 actions for violations of the provisions of this ~~act~~

1 Chapter."

2 Section 44. Section 46-1011, B.C.M. 1947, is amended
3 to read as follows:

4 "46-1011. Powers and duties of inspectors outside of
5 state. [1] The stock inspector appointed to inspect Montana
6 cattle at a cattle market outside this state shall be
7 commissioned by the department, and may inspect cattle that
8 come from this state to the market where he is located. He
9 has the same power as stock inspectors in this state to
10 inspect, and seize, and sell stock which he has reason to
11 believe is stolen, or on which brands have been altered or
12 obliterated. He may take the proceeds of an animal in
13 dispute, or bearing altered or turned brands, resmitting the
14 proceeds to the department, which shall hold the proceeds
15 pending a decision on ownership.

16 [2] The stock inspector shall, on receipt of the
17 certified lists mentioned in ~~sections 46-1009~~ 46-1008 and
18 46-1010, make an inspection of the cattle listed, and if, on
19 comparison of the list with his own inspection, he finds a
20 difference or discrepancy, he shall make a second inspection
21 of any animal for which the two tallies do not agree,
22 clipping the animal when necessary to determine, accurately
23 and definitely, which inspection or tally is correct. He
24 shall immediately make an inspection report to the
25 department, stating in detail where the discrepancies with

1 the loading tally exist, and calling special attention to
2 his own inspection of the animal. He shall, in his own
3 report, make mention of any animal, with the brands on the
4 animal, which were taken out by the shipper in charge of the
5 stock while in transit between the original loading point
6 and point of final destination. These reports shall be
7 entered in a suitably bound book and are at all times open
8 to public inspection."

9 Section 45. Section 46-1101.2, B.C.M. 1947, is amended
10 to read as follows:

11 "46-1101.2. Hide certificate — identification. (1) A
12 seller of an animal hide shall obtain a hide certificate
13 from the person receiving the hide. The department shall
14 prescribe the form of the certificate which shall include
15 the marks and brands on each hide. The party receiving the
16 hide must designate where it will be kept for ~~thirty~~ (30)
17 days following delivery. The certificate must be signed by
18 the seller or his agent and the person receiving the hide.

19 (2) Hide certificates, tags, and glue shall be
20 furnished to the sheriff of each county by the department at
21 cost and by the sheriff to any person requiring the
22 certificates, tags, and glue. Only those certificates, tags,
23 and glue distributed by the department may lawfully be used
24 under this act. The original certificate shall be filed with
25 the sheriff of the county of the seller's residence. One ~~(4)~~

1 copy shall be sent by the party receiving the hide to the
 2 department, one ~~(4)~~ retained by the seller, and one ~~(4)~~ by
 3 the hide buyer. On reasonable notice, a sheriff, deputy
 4 sheriff, state stock inspector, or deputy state stock
 5 inspector may inspect the hide certificate copy of the
 6 seller or buyer. The department shall prescribe an
 7 identification tag to be affixed to each hide by the person
 8 receiving the hide when it is delivered. ~~Hide-dealers-and~~
 9 ~~buyers~~ If hides are purchased outside the county of the
 10 seller's residence, the hide dealer or buyer must also mail
 11 the original a copy of the hide certificate to the sheriff
 12 of each county in which hides are purchased within ~~five~~-(5)
 13 days after purchase."

14 Section 46. Section 46-1103, R.C.M. 1947, is amended
 15 to read as follows:

16 "46-1103. Mutilation or concealment of hides ~~is~~ a
 17 felony. Every person who willfully or maliciously mutilates,
 18 destroys, or conceals the hide ~~from~~ of any horse, mare,
 19 colt, mule, jack, ~~jecket~~ jerky, bull, steer, cow, calf,
 20 goat, hog, or sheep with intent to or for the purpose of
 21 removing evidence of ownership of such hide or the animal
 22 from which ~~said~~ the hide was removed, is guilty of a felony,
 23 and punishable as hereinafter provided."

24 Section 47. Section 46-1104, R.C.M. 1947, is amended
 25 to read as follows:

1 "46-1104. Sufficiency of pleading and proof in
 2 criminal prosecution ~~under act~~. In any prosecution for the
 3 violation of the provisions of this act, it ~~shall~~ is not be
 4 necessary for the state to allege in the complaint or
 5 information ~~or proof~~, the ownership of the hide, or of the
 6 animal from which ~~said~~ the hide was removed, but it ~~shall be~~
 7 is sufficient to allege in the complaint or information ~~or~~
 8 proof that the owner of ~~said~~ the hide or of the animal from
 9 which ~~said~~ the hide was removed, is unknown and not the
 10 property of the defendant."

11 Section 48. Section 46-1107, R.C.M. 1947, is amended
 12 to read as follows:

13 "46-1107. Hide dealer or ~~buyers~~ buyer's license fee --
 14 disposition of proceeds. Before engaging in business in
 15 this state, a hide dealer or buyer shall ~~pay to obtain a~~
 16 license from the department, and The annual license fee ~~of~~
 17 ~~five dollars is~~ (\$5) for each established place of business
 18 at which the hide dealer or buyer purchases or deals in
 19 hides, ~~before engaging in or conducting this business in~~
 20 ~~this state~~. The license continues in force for that calendar
 21 year. The moneys collected from the licenses shall be placed
 22 in the earmarked revenue fund ~~of~~ for the department. The
 23 license must be renewed January 1 of each year."

24 Section 49. Section 46-1107.1, R.C.M. 1947, is amended
 25 to read as follows:

1 *46-1107.1. Acting without a license -- revocation.
 2 [1] Any person acting as a hide dealer or buyer without a
 3 license as required by this act is guilty of a misdemeanor.
 4 [2] Upon receipt of a certified copy of the judgment
 5 of conviction of any hide dealer or buyer for any violation
 6 of this act, the ~~livestock-commission~~ department may revoke
 7 the license of such person for ~~one~~ 1 year commencing on the
 8 date of the licensee's conviction."

9 Section 50. Section 46-1406, R.C.M. 1947, is amended
 10 to read as follows:

11 *46-1406. Procedure when owner unknown or not resident
 12 of state -- sale of wire removed. If there ~~be~~ is no known
 13 owner of such wire within the state, or if such owner ~~be~~ is
 14 unknown to the board of county commissioners, ~~said the~~ board
 15 ~~shall have authority to~~ may collect and remove ~~said the~~ wire
 16 at the expense of the county. All such wire or other fencing
 17 as in the opinion of the board of county commissioners can
 18 be sold at a price sufficient to cover at least the expense
 19 of removal and sale, shall be sold by the county
 20 commissioners in the manner ~~now~~ provided by law for the sale
 21 of county property, except that notice of such sale need be
 22 published only once and need be given only ~~ten~~ 10 days
 23 before such sale."

24 Section 51. Section 46-1410, R.C.M. 1947, is amended
 25 to read as follows:

1 *46-1410. Stock trespassing may be retained. (1) If
 2 an animal breaks into an inclosure surrounded by a legal
 3 fence, or is wrongfully on the premises of another, the
 4 owner or occupant of the inclosure or premises may take into
 5 his possession the trespassing animal, and keep the animal
 6 until all damages, together with reasonable charges for
 7 keeping and feeding the animal, are paid. The person who
 8 takes the animal into his possession shall, within
 9 ~~seventy-two~~ (72) hours after he takes possession, give
 10 written notice to the owner or person in charge of the
 11 animal, stating that he has taken the animal. The notice
 12 shall also give the date of the taking, the description of
 13 the animal taken, including marks and brands, if any, the
 14 amount of damages claimed, and the charge per head per day
 15 for caring for and feeding the animal, and ~~shall describe~~
 16 the description, either by legal subdivisions or other
 17 general description, of the location of the premises on
 18 which the ~~animals are~~ animal is held. In all cases a copy of
 19 the notice shall also be posted at a point where the ~~stock~~
 20 animal was taken.

21 (2) The notice shall be given to the owner or person
 22 in charge only when the owner or person in charge of the
 23 animal is known to the person taking the animal and resides
 24 within ~~twenty-five~~ (25) miles of the premises on which the
 25 ~~animals have been~~ animal was taken. If the owner or person

1 in charge of the animal resides more than ~~twenty-five~~ (25)
 2 miles from the place of the taking, the notice shall be
 3 mailed to him, ~~and in~~. In this case, ~~and also~~ or if the
 4 owner is unknown, a similar notice shall be mailed to the
 5 department of livestock and the sheriff of the county in
 6 which the ~~animals have~~ animal has been taken. On receipt of
 7 the notice, the sheriff shall post a copy of the notice at
 8 the courthouse and shall send by ~~registered~~ certified mail a
 9 copy of it to the owner of the stock, if known to him. If
 10 unknown to him, the sheriff shall send a copy of the notice
 11 to the nearest state livestock inspector.

12 (3) If the parties within ~~five~~ (5) days thereafter do
 13 not agree to the amount of damages, the ~~lien~~ claimant must
 14 within ~~ten~~ (10) days thereafter institute a civil action to
 15 ~~foreclose his lien~~ collect his claim in a court of competent
 16 jurisdiction. Pending the outcome of the suit, the person
 17 taking the stock may, at the expense of the owner, retain a
 18 sufficient ~~amount~~ number of ~~stock~~ animals to cover the
 19 amount of damages claimed by him. The defendant may, after
 20 the institution of the action, on filing a bond executed by
 21 two (2) or more sureties and approved by the court, in
 22 double the sum sued for, conditioned ~~for~~ upon the payment to
 23 the plaintiff of all sums, including costs that may be
 24 recovered by the plaintiff, have all livestock returned to
 25 ~~him, and the person~~. The claimant is liable to the owner for

1 any loss or injury to the stock occurring through his fault
 2 or neglect. If the ~~person taking the stock~~ claimant fails
 3 to recover in the action a sum equal to that offered him by
 4 the owner of the stock, the ~~former~~ claimant bears the
 5 expense of keeping and feeding the stock while in his
 6 possession.

7 (4) A person who takes or rescues an animal from the
 8 possession of the person taking the animal, without his
 9 consent, is guilty of a misdemeanor, and shall be fined not
 10 less than ~~one hundred dollars~~ (\$100) ~~or~~ or more than ~~five~~
 11 ~~hundred dollars~~ (\$500)."

12 Section 52. Section 46-1708, R.C.M. 1947, is amended
 13 to read as follows:

14 "46-1708. Declaration of animals running at large as
 15 nuisance — abatement. Any such animal so running at large
 16 ~~shall be, and it is hereby declared to be,~~ is a public
 17 nuisance, which, in addition to the means and proceedings
 18 prescribed by this act for its abatement and removal, may be
 19 abated and removed by the means and proceedings ~~now, or~~
 20 ~~hereafter to be,~~ provided by law for the abatement or
 21 removal of public nuisances."

22 Section 53. Section 46-1717, R.C.M. 1947, is amended
 23 to read as follows:

24 "46-1717. Female breeding cattle, purebred bull to
 25 accompany. [1] Any person, ~~or persons,~~ firm, company, or

1 corporation allowing or permitting female breeding cattle to
 2 run at large upon the public ranges or national forest
 3 reserves in the state of Montana must place upon ~~said the~~ the
 4 range or national forest reserve one purebred graded bull of
 5 a recognized beef type, not less than ~~fifteen--(15)~~ months
 6 ~~or~~ or more than ~~eight--(8)~~ years of age, for every ~~thirty~~
 7 ~~(30)~~ head of female breeding cattle, pastured upon such
 8 range or national forest reserve, ~~provided, however, that~~
 9 ~~any, but~~ two ~~(2)~~ or more such users of the public range or
 10 national forest reserve may join together in furnishing such
 11 bull when the aggregate number of female breeding cattle
 12 turned loose upon the same range or national forest reserve
 13 by such two ~~(2)~~ or more users thereof does not exceed ~~thirty~~
 14 ~~(30)~~ head.

15 (2) A purebred bull as contemplated by this act must
 16 be a bull having a registration certificate from the
 17 breeding association of its particular breed. A graded bull,
 18 as defined in this act, shall be ~~one~~ a purebred bull
 19 selected by a committee of permittees."

20 Section 54. Section 46-1802, R.C.M. 1947, is amended
 21 to read as follows:

22 "46-1802. Abandoned horses on public range declared
 23 public nuisance subject to condemnation -- right of owner.
 24 It ~~shall--be~~ is unlawful for any person ~~to suffer or permit~~
 25 ~~any abandoned horse to run at large owning or having control~~

1 of any horse to abandon the horse upon the open range in the
 2 state of Montana, and such horses so running at large upon
 3 the open range in the state are ~~herby declared to be~~ a
 4 public nuisance and a public menace, and are ~~herby~~
 5 condemned, subject to the right of the owner of any such
 6 abandoned horse to reclaim the same ~~as--and~~ under the
 7 conditions hereinafter provided."

8 Section 55. Section 46-2412, R.C.M. 1947, is amended
 9 to read as follows:

10 "46-2412. Disposal of hides -- inspection -- filing of
 11 dead or fallen animal record. When a licensed renderer or
 12 his agent disposes of the hides from dead or fallen animals,
 13 the hides shall be handled and inspected for marks and
 14 brands in conformity with Title 46, chapter 11. The sheriff,
 15 deputy sheriff, person designated by the board of county
 16 commissioners, or the agent of the department who makes the
 17 inspection for marks and brands in conformity with Title 46,
 18 chapter ~~26~~ 11, shall complete the original dead or fallen
 19 animal record which accompanies the hide by inserting his
 20 inspector's tag number. He shall file the completed original
 21 dead or fallen animal record without cost in the office of
 22 the county clerk and recorder, together with the duplicate
 23 certificate of inspection required to be filed under Title
 24 46, chapter 11."

25 Section 56. Section 46-3001, R.C.M. 1947, is amended

1 to read as follows:

2 "46-3001. Dogging livestock. Any person, who shall
3 ~~permit permits~~ or ~~direct directs~~ any dog owned by ~~them, him~~
4 or in ~~their his~~ possession ~~or in the possession of any~~
5 ~~employee~~ to chase or run any cattle or other livestock, of
6 which he is not the owner or the person in charge, upon the
7 open range, or government lands or away from any watering
8 place upon the open range, ~~shall be~~ is guilty of a
9 misdemeanor and ~~shall be~~ punishable by a fine of not more
10 than ~~fifty dollars~~ \$50."

11 Section 57. Section 46-3007, R.C.M. 1947, is amended
12 to read as follows:

13 "46-3007. Stolen livestock — seizure and confiscating
14 of vehicle used to transport — service of process. Service
15 of process in ~~each a~~ proceeding for confiscation of such
16 vehicle shall conform as far as practicable with the
17 provisions of ~~sections 93-3007 to 93-3015, both inclusive,~~
18 the Montana rules of civil procedure, provided, that ~~in so~~
19 ~~far insofar~~ as the proceeding against the vehicle is
20 concerned no copy of the summons or complaint need be mailed
21 ~~and no showing need be made under the provisions of said~~
22 ~~section 93-3013,~~ and the service shall be complete upon
23 publication."

24 Section 58. Section 82A-406.1, R.C.M. 1947, is amended
25 to read as follows:

1 "82A-406.1. Intent of act. ~~It is the intent of this~~
2 ~~act to place jurisdiction~~ Jurisdiction over milk hauling
3 rates from producer to plant is in the department of
4 business regulation and jurisdiction over such rates among
5 plants is in the board of milk control."

6 Section 59. Repealer. Sections 3-2445, 3-2446, 46-904,
7 46-905, and 46-1201 through 46-1204, R.C.M. 1947, are
8 repealed.

-End-