

CHAPTER NO. 14

HOUSE BILL NO. 5

INTRODUCED BY KVAALEN

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Judiciary.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to Pre-Filed bills.
January 12, 1979	Committee recommend bill do pass. Report adopted.
January 13, 1979	On motion rules suspended and bill placed on Second Reading this day.  Second Reading, do pass.  On motion rules suspended and bill placed on Third Reading this day.  Third Reading, passed. Engrossed before transmitted. Transmitted to Second House.

IN THE SENATE

January 15, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
January 25, 1979	Committee recommend bill be concurred in. Report adopted. Placed on Consent Calendar.
January 27, 1979	Consent Calendar discussion.
January 29, 1979	Bill concurred in.

IN THE HOUSE

January 30, 1979

Returned from Second House.  
Sent to enrolling.

Report correctly enrolled.

1                    House                    5  
 2                    BILL NO.                    5  
 3                    INTRODUCTION BY \_\_\_\_\_  
 4                    BY REQUEST OF THE CODE COMMISSIONER

5                    A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6                    CLARIFY THE LAW RELATING TO LIVESTOCK; REPEALING SECTIONS  
 7                    3-2491, 46-1701, AND 46-1703, R.C.M. 1947."

8  
 9                    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 10                    Section 1. Section 81-2-105, MCA, is amended to read:  
 11                    "81-2-105. Authority of municipal corporations. ~~Parts~~  
 12                    ~~1 through 3 of this chapter 81-1-301 through 81-1-304~~  
 13                    ~~81-9-201 through 81-9-204, 81-20-101, 81-21-102, and~~  
 14                    ~~81-21-103 do not prevent~~ Nothing in this title prevents the  
 15                    governing authority of a municipal corporation from enacting  
 16                    or enforcing ordinances for the inspection of  
 17                    slaughterhouses, meat depots, meat markets, meat food  
 18                    products, creameries, butter or cheese factories, dairies,  
 19                    or dairy products, located, sold, or offered for sale in the  
 20                    limits of the municipal corporation. An ordinance may not be  
 21                    enforced in conflict with the powers of ~~parts 1 through 3 of~~  
 22                    ~~this chapter 81-1-301 through 81-1-304, 81-9-201 through~~  
 23                    ~~81-9-204, 81-20-101, 81-21-102, and 81-21-103~~ this title  
 24                    delegated to the department and its officers or agents."

25                    Section 2. Section 81-3-231, MCA, is amended to read:

1                    "81-3-231. Penalties. (1) A person is guilty of a  
 2                    misdemeanor and ~~shall be~~ is punishable as provided in  
 3                    subsection (6) of this section ~~when if~~ he removes livestock  
 4                    or causes livestock to be removed from a county in this  
 5                    state:

6                    (a) without having the livestock inspected before  
 7                    removal ~~where if~~ an inspection is required by law;

8                    (b) without obtaining a market consignment permit or  
 9                    transportation permit ~~where if~~ the permits are obtainable  
 10                    required by law;

11                    (c) and does obtain a market consignment permit for  
 12                    livestock but does not deliver the livestock transported  
 13                    thereunder to the livestock market designated in the market  
 14                    consignment permit;

15                    (d) and does obtain a transportation permit for the  
 16                    livestock but does not deliver the livestock transported  
 17                    thereunder to the destination as shown on the transportation  
 18                    permit and fails to have the livestock so transported  
 19                    inspected at the point of destination or does not file a  
 20                    loading tally with the carrier as provided in 81-4-607.

21                    (2) A person who sells livestock or offers livestock  
 22                    for sale at a livestock market without having the livestock  
 23                    inspected or removes livestock or causes livestock to be  
 24                    removed from a livestock market without obtaining a release  
 25                    is guilty of a misdemeanor and is punishable as provided in

1 subsection (6) of this section.

2 (3) A person who ships by railroad carrier and the  
3 railroad carrier transporting livestock for which a loading  
4 tally has been filed as provided by 81-4-607 and for which  
5 shipment of livestock an inspection has not been made ~~and~~  
6 ~~which~~ after shipment, causes or permits the livestock to  
7 leave the custody of the railroad carrier at a place other  
8 than where this state regularly maintains a stock inspector  
9 is guilty of a misdemeanor and ~~shall be~~ is punishable as  
10 provided in subsection (6) of this section.

11 (4) A person who has in his charge livestock being  
12 removed from a county in the state for which an inspection  
13 certificate, a market consignment permit, or a market  
14 release certificate has been issued and fails to have in his  
15 possession accompanying the livestock the inspection  
16 certificate, market consignment permit, or a market release  
17 certificate as issued for the livestock, or who, having the  
18 certificate of inspection, market consignment permit, or  
19 market release certificate, fails to exhibit it to a  
20 sheriff, deputy sheriff, constable, highway patrolman, state  
21 stock inspector, or deputy state stock inspector at his  
22 request is guilty of a misdemeanor and is punishable as  
23 provided in subsection (6) of this section.

24 (5) Except as specifically otherwise provided, a  
25 person violating any of the provisions of this [part] is

1 guilty of a misdemeanor and is punishable as provided in  
2 subsection (6) of this section.

3 (6) Upon conviction under this section, a person,  
4 firm, association, or corporation ~~under this section~~ shall  
5 be fined not less than \$50 or more than \$500 or imprisoned  
6 in the county jail for a period of not more than 6 months,  
7 or both fined and imprisoned. Of all fines assessed and  
8 collected under this section, 50% shall be paid into the  
9 state treasury and credited to the earmarked revenue fund  
10 for the use of the department, and 50% shall be paid into  
11 the general fund of the county in which the conviction  
12 occurred."

13 Section 3. Section 81-4-309, MCA, is amended to read:  
14 "81-4-309. Unlawful introduction of livestock into  
15 herd district a misdemeanor -- penalty. Any person not the  
16 owner or person in charge of any livestock who ~~shall drive,~~  
17 ~~put, place, or introduce~~ causes any livestock into to enter  
18 any herd district established under the provisions of  
19 81-4-301 through 81-4-309 ~~or who shall so place, move, or~~  
20 ~~interfere with such livestock that they will trespass on~~  
21 ~~such herd district shall be~~ is guilty of a misdemeanor and  
22 upon conviction thereof be is subject to a fine of not less  
23 than \$50 or ~~shall be confined~~ confinement in the county  
24 jail not less than 60 days or both such fine and  
25 imprisonment and ~~shall be~~ is liable for all damages and

1 costs occurring from such trespass. For the purposes of this  
 2 section, each separate animal so ~~moved, placed, or~~  
 3 ~~interfered with shall constitute~~ constitutes a separate  
 4 offense."

5 Section 4. Section 81-5-102, MCA, is amended to read:

6 "81-5-102. Driving animals upon railroad track. ~~(1)~~

7 Every ~~if~~ a person who willfully drives ~~any~~ an animal upon  
 8 ~~any~~ a railroad track with intent to injure the corporation  
 9 or persons owning the railroad and such animal is killed or  
 10 injured thereby, ~~the person~~ the person is punishable by imprisonment in  
 11 the state prison not exceeding 5 years ~~and is~~ ~~(2)~~ ~~if~~ ~~the~~  
 12 ~~owner or owners, or his or their duly authorized agent or~~  
 13 ~~agents, of any animal or animals mentioned in 69-14-707~~  
 14 ~~shall drive the same upon the track of any such corporation,~~  
 15 ~~association, company, person, or persons with the intention~~  
 16 ~~to injure it or them and such animal or animals shall be~~  
 17 ~~killed or injured, such owner or owners shall be~~ liable for  
 18 all injury or damage occasioned by reason of such act ~~and~~  
 19 ~~shall be punished as provided in subsection (1)."~~

20 Section 5. Section 81-7-115, MCA, is amended to read:

21 "81-7-115. Duty of county clerk. (1) The county clerk  
 22 shall, on receipt of each certificate, file the certificate  
 23 in the order in which it is received and safely keep it  
 24 until the arrival of the skin or skins mentioned in the  
 25 certificate. On receipt of the skin or skins he shall call

1 to his assistance either the county treasurer or, in his  
 2 absence, the clerk of the district court who, with both  
 3 present in order to prevent fraud, shall examine each scalp  
 4 ~~or mountain lion lower jaw skin.~~ or lower jaw skin. If the examination  
 5 discloses that the scalps or lower jaw skins agree with the  
 6 number and kind of scalps or lower jaw ~~of mountain lion~~  
 7 ~~skins~~ mentioned in the certificate, the county clerk shall,  
 8 in the presence of the treasurer or clerk of the district  
 9 court, destroy the scalps or lower jaw skins by fire.

10 (2) The county clerk shall then make out and deliver  
 11 to the person named in that certificate a second certificate  
 12 showing the statement of the facts contained in the  
 13 certificate to the sheriff, undersheriff, or deputy sheriff,  
 14 with the additional statement of the examination made by him  
 15 and that he found the scalps or lower jaw skins to agree  
 16 with the number and kind mentioned in the certificate of the  
 17 sheriff, undersheriff, or deputy sheriff. In no case may a  
 18 bounty certificate be issued by the county clerk for more  
 19 scalps or lower jaw skins than are actually received and  
 20 counted by him.

21 (3) The county clerk shall receive, for each scalp or  
 22 skin of a mountain lion lower jaw which he accounts for, the  
 23 sum of 5 cents to be paid quarterly by the state treasurer  
 24 out of the bounty fund.

25 (4) The county clerk shall keep a record of all

1 certificates received and issued, showing the date and  
 2 description of the number and kind of hides and the names of  
 3 the persons presenting the hides, and this record is an  
 4 official record. County clerks are required to send a report  
 5 and statement to the department on or before the 20th of  
 6 each month."

7 Section 6. Section 81-7-119, MCA, is amended to read:

8 "81-7-119. County license money to be used for ~~payment~~  
 9 ~~of bounty claims predator control~~. For the purpose of  
 10 providing for the ~~payment of bounty claims predator control~~,  
 11 5% of all license money collected by the several county  
 12 treasurers of the state, as provided in 7-21-2105, as  
 13 amended shall be paid over by said ~~the~~ county treasurers to  
 14 the state treasurer and shall be deposited by the latter in  
 15 the earmarked revenue fund."

16 Section 7. Section 81-7-121, MCA, is amended to read:

17 "81-7-121. Falsifying certificates or affidavits --  
 18 penalty. Any person who ~~shall~~ falsely ~~make~~ ~~makes~~, ~~alter~~  
 19 ~~alters~~, ~~forge~~ ~~forges~~, or ~~counterfeit~~ ~~counterfeits~~ any of  
 20 ~~said the~~ certificates or orders ~~shall be deemed guilty of~~  
 21 ~~forgery~~, and any person who ~~shall~~ falsely swear ~~swears~~ to  
 22 any affidavit provided for by 81-7-111 through 81-7-122, or  
 23 ~~procure~~ procures the same to be done by another, with the  
 24 intent of obtaining any one of ~~said the~~ certificates or  
 25 orders, ~~shall be deemed guilty of perjury and any person~~

1 ~~convicted of any of the offenses declared in this section~~  
 2 ~~shall be punished by imprisonment in the state prison for a~~  
 3 ~~term of not less than 1 year or more than 10 years is~~  
 4 punishable as provided in Title 45."

5 Section 8. Section 81-7-402, MCA, is amended to read:

6 "81-7-402. Liability of owner of dog for damages to  
 7 livestock or poultry. (1) The owner of livestock or poultry  
 8 injured or killed by any dog may recover as liquidated  
 9 damages from the owner of the dog the actual value of the  
 10 animals killed or the value of the damages sustained by  
 11 reason of the injuries as the case may be. If two or more  
 12 dogs kept by two or more owners or keepers injure or kill  
 13 any livestock or poultry at the same time, the owners or  
 14 keepers of the dogs are jointly and severally liable for  
 15 such damages. ~~It shall be is~~ no defense to ~~said the~~ action  
 16 that the owner or keeper of the dog had no knowledge of the  
 17 dog's whereabouts at or prior to the time when the dog  
 18 injured or killed livestock or poultry or that the owner or  
 19 keeper of the dog had no knowledge of the dog's disposition  
 20 or inclination to worry, kill, or injure livestock or  
 21 poultry.

22 (2) The word "owner" when used in this section in  
 23 relation to property interest in or possession of dogs ~~shall~~  
 24 include includes every person who owns, harbors, or keeps a  
 25 dog."

1 Section 9. Section 81-8-311, MCA, is amended to read:

2 "81-8-311. Range stock -- taking possession under  
3 process. Whenever it is necessary for an officer or person  
4 charged with the service of process out of any of the courts  
5 of this state to take possession of any cattle or horses  
6 running at large and commonly known as range stock, between  
7 November 1 and the next succeeding May 15, it is a  
8 sufficient service of such process for the officer or person  
9 ~~charged with the service of the same~~ within 15 days after  
10 receiving the process for service to file a copy thereof  
11 with the county clerk of the county wherein such property is  
12 running at large, with a notice appended thereto ~~containing~~  
13 stating the number, as near as may be, and a description of  
14 ~~said~~ the stock by marks and brands, and stating that such  
15 property or a portion thereof, as the case may be, is  
16 attached or levied upon in pursuance of such process, ~~with~~  
17 ~~the county clerk of the county wherein such property is~~  
18 ~~running at large, within 15 days after the receipt of such~~  
19 ~~process for service, and such officer or person~~ shall make  
20 due return of ~~his said proceedings upon said~~ the service of  
21 process."

22 Section 10. Section 81-8-609, MCA, is amended to read:

23 "81-8-609. Receipt of gifts, grants, or donations for  
24 research purposes. The department of livestock ~~is hereby~~  
25 ~~authorized to~~ may receive any gifts, grants, or donations

1 for any research of ~~or~~ scientific inquiries conducted under  
2 authority of this part and ~~to use and expend the same in~~  
3 compliance with the conditions, if any, of such grants,  
4 gifts, and donations, ~~provided if~~ such conditions are valid  
5 under the laws of ~~the state of~~ Montana and in aid of the  
6 purposes of this part."

7 Section 11. Section 81-9-424, MCA, is amended to read:

8 "81-9-424. Sufficiency of pleading and proof in  
9 criminal prosecution. In any prosecution for the violation  
10 of the provisions of 81-9-423 it is not necessary for the  
11 state to allege in the complaint or information the  
12 ownership of the hide or of the animal from which the hide  
13 was removed, but it is sufficient to allege in the complaint  
14 or information that the owner of the hide or of the animal  
15 from which the hide was removed is unknown and the hide or  
16 animal is not the property of the defendant."

17 Section 12. Section 81-22-101, MCA, is amended to  
18 read:

19 "81-22-101. Definitions. For the purpose of this  
20 chapter, the following definitions are adopted:

21 (1) "Agent" means a person who is authorized by  
22 another person to act for him in dealing with a third  
23 person.

24 (2) "Butter" is the clean, nonrancid product made by  
25 gathering the fat of fresh ripened milk or cream into a mass

1 which also contains a small portion of the other milk  
2 constituents, with or without salt, and must contain not  
3 less than 80% of milk fat. No tolerance for deficiency in  
4 milk fat is permitted. Butter may also contain added  
5 coloring matter.

6 (3) "Cheese" is the sound, solid, and ripened product  
7 made from milk or cream by coagulating the casein with  
8 rennet or lactic acid, with or without ripening ferments and  
9 seasoning, and must contain in the water-free substance not  
10 less than 50% of milk fat, and not more than 39% of  
11 moisture. Cheese may also contain added coloring matter.

12 (4) ~~(a)~~ "Cheese factory" means a place where cheese,  
13 including cream cheese, cottage cheese, creamed cottage  
14 cheese, cheese curd, cottage cheese dressing, and low-fat  
15 counterparts of cheese, either cultured or directly  
16 acidified, is made for commercial purposes.

17 ~~(b) A "cheese factory" is a place where milk furnished~~  
18 ~~by three or more persons is made into cheese for commercial~~  
19 ~~purposes.~~

20 (5) "C.I.P." means the procedure by which sanitary  
21 pipelines or pieces of dairy equipment are mechanically  
22 cleaned in place by circulation when this procedure meets  
23 the 3-A accepted practices for permanently installed  
24 sanitary product-pipelines and cleaning systems.

25 (6) "Code of Federal Regulations" refers especially

1 but is not limited to Title 21 which contains the  
2 definitions and standards of identity for products as  
3 established by the food and drug administration, United  
4 States department of health, education, and welfare.

5 (7) "Cream" means the milk fat which rises to the  
6 surface when milk is allowed to stand or which is separated  
7 from milk by centrifugal force when sold, used, or intended  
8 for use in a manufactured product.

9 ~~(8) (a) A "creamery" is a place where milk or cream~~  
10 ~~furnished by three or more persons is used for manufacture~~  
11 ~~into butter for commercial purposes.~~

12 ~~(b) "Creamery" means a place where butter is made for~~  
13 ~~commercial purposes.~~

14 (9) "Culture" means the harmless lactic acid  
15 fermenting bacteria which are added to milk or cream to make  
16 manufactured dairy products like cultured buttermilk,  
17 cheese, cottage cheese, yogurt, sour cream, cream cheese,  
18 butter, and other similar products.

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

22 (11) The term "department", unless otherwise indicated,  
23 means the department of livestock provided for in Title 2,  
24 chapter 15, part 31.

25 (12) "Direct acidification", "directly acidified", and



1 similar terms mean the process of adding a food grade acid  
2 to milk or cream instead of or in addition to the adding of  
3 culture.

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

17 (14) "French ice cream", "French custard ice cream",  
18 "cooked ice cream", "ice custard", "parfaits", and similar  
19 frozen products, except sherbets and water ices, are  
20 varieties of ice cream.

21 (15) "Frozen dessert plant" means a place where  
22 products named in subsections (27)(a)(iii) through  
23 (27)(a)(ix) of this section are made for commercial  
24 purposes.

25 (16) "Fruit ice cream" shall conform to the

1 requirements of ice cream, except that the fruit ingredients  
2 must be from sound, clean, and mature fruit, and it must  
3 contain not less than 9% of milk fat.

4 (17) "Grading" means the examination of milk, cream, or  
5 products by sight, odor, taste, or laboratory analysis, the  
6 results of which determine a grade designating their  
7 quality.

8 (18) "Ice" or "ice sherbet" is the pure, clean, frozen  
9 product made from water and sugar with harmless fruit or  
10 fruit juice flavoring, with or without harmless coloring or  
11 added stabilizer composed of wholesome edible material, and  
12 must contain not less than 35/100 of 1% of acid, as  
13 determined by titrating with standard alkali and expressed  
14 as lactic acid. It may contain no milk solids.

15 (19) "Ice cream" is a frozen product made with pure,  
16 sweet milk, cream, skim milk, evaporated or condensed milk,  
17 evaporated or condensed skim milk, dry milk, dry skim milk,  
18 pure milk fat, wholesome sweet butter, or any combination of  
19 these products, with or without sweetening, or clean  
20 wholesome eggs or egg products, with or without the use of  
21 harmless flavoring and coloring. Ice cream must contain not  
22 less than 10% of milk fat, not less than 33% total solids,  
23 and may or may not contain pure and harmless edible  
24 stabilizer. Ice cream may contain not to exceed 1% gelatin.  
25 No frozen milk or milk product may be manufactured or sold

1 unless it contains at least 10% butterfat, excepting  
 2 sherbets, ices, and other exceptions under this section. All  
 3 ice cream must be manufactured from pasteurized ice cream  
 4 mix.

5 (20) An "ice cream factory" is a place where ice cream  
 6 mix is frozen into ice cream for commercial purposes.

7 (21) (a) "Ice cream mix" is a pasteurized, unfrozen  
 8 product used in the manufacture of ice cream and must comply  
 9 with the requirements for ice cream.

10 (b) "Mix" includes the liquid, unfrozen product from  
 11 which those frozen products listed under subsection  
 12 (27)(a)(iii) through (27)(a)(v) and (27)(a)(vii) through  
 13 (27)(a)(xii) are made.

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

16 (23) "intrastate commerce" means commerce within this  
 17 state under the jurisdiction of the state and includes the  
 18 operation of a business or service establishment.

19 (24) "Manufactured dairy product" means an item  
 20 enumerated in subsection (27) or any other dairy product  
 21 made by incorporating milk or cream or converting milk or  
 22 cream into a different state of appearance or quality. For  
 23 purposes of reporting production and licensing,  
 24 "manufactured dairy product" includes but is not limited to:

25 (a) ice cream or its mix;

1 (b) French ice cream, custard ice cream, French  
 2 custard ice cream, their low-fat counterparts, or their  
 3 mixes;

4 (c) sherbets of all kinds or their mixes;

5 (d) animal or vegetable fat frozen desserts or their  
 6 mixes;

7 (e) frozen confections or their mixes when made in a  
 8 manufactured dairy products plant;

9 (f) water ices or their mixes;

10 (g) frozen dessert sandwiches, bars, cones, and  
 11 similar novelties;

12 (h) frozen dessert made of nondairy origins and other  
 13 products made in the semblance or imitation of dairy  
 14 products or their mixes when made in a manufactured dairy  
 15 products plant;

16 (i) ice milk or its mix;

17 (j) cheese of all kinds, including cottage cheese,  
 18 cheese curd, cheese dressing, and cream cheese, either  
 19 cultured or directly acidified;

20 (k) sour cream when cultured or directly acidified;

21 (l) eggnog, low-fat eggnog, eggnog-flavored milk, and  
 22 similar flavored products;

23 (m) buttermilk, cultured or from churned butter or  
 24 directly acidified;

25 (n) butter;

1 (o) yogurt--~~1~~ low-fat yogurt, or flavored yogurt,  
2 either cultured or directly acidified or frozen.

3 (25) "Manufactured dairy products plant" or "factory"  
4 means a place where milk or cream is collected and converted  
5 into a product or into a different state of appearance or  
6 quality or which manufactures those products listed in  
7 subsection (27). If only products of semblance or imitation  
8 of dairy products are made, the plant is not considered as a  
9 manufactured dairy products plant.

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

19 (27) (a) "Milk" and "cream" mean milk and cream sold,  
20 used, or intended for manufacturing purposes or for  
21 conversion into products of a form other than the form in  
22 which originally produced or products commonly known as but  
23 not limited to:

24 (i) butter;

25 (ii) cheese, including cottage cheese, low-fat cottage

1 cheese, cheese curd, and cream cheese which are either  
2 cultured or directly acidified, and cheese dressings;

3 (iii) ice cream or its mix;

4 (iv) frozen dessert or its mix;

5 (v) sherbets of all kinds or their mixes;

6 (vi) frozen ice cream bars, sandwiches, cones, and  
7 similar novelties;

8 (vii) frozen desserts or products made in the semblance  
9 or imitation of frozen dessert;

10 (viii) frozen confections or their mixes;

11 (ix) water ices or their mixes;

12 (x) ice milk or its mix;

13 (xi) French ice cream, French custard, or their mixes;

14 (xii) frozen custard or its mix and frozen yogurt;

15 (xiii) yogurt, flavored yogurt, and low-fat yogurt;

16 (xiv) sour cream--~~1~~ either cultured or directly  
17 acidified;

18 (xv) cream cheese--~~1~~ either cultured or directly  
19 acidified;

20 (xvi) buttermilk--~~1~~ either cultured, from churned  
21 butter, or directly acidified;

22 (xvii) eggnog, low-fat eggnog, eggnog-flavored milk,  
23 whipped cream, flavored toppings, and similar flavored  
24 products;

25 (xviii) dry or powdered milk; and

1 (xix) condensed milk products.  
 2 (b) The items specified in subsection (27)(a) of this  
 3 section shall conform to the standards of identity set forth  
 4 in the Code of Federal Regulations. If standards of identity  
 5 are not set forth in the code, then the standards adopted by  
 6 the department prevail. The labeling of manufactured dairy  
 7 products shall be in accordance with the Montana Food, Drug,  
 8 and Cosmetic Act.

9 (28) ~~(a) "Milk or cream buying or collecting station"~~  
 10 ~~is a place where milk or cream is bought or collected for~~  
 11 ~~shipment or delivery to a creamery or to a person intending~~  
 12 ~~to make use of it for commercial purposes.~~

13 (b) "Milk or cream cream station" means a place other  
 14 than a creamery where deliveries of milk or cream are  
 15 weighed, graded, sampled, tested, or collected for purchase.

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

24 (30) "Mislabeled", "unwholesome", "food additives",  
 25 "optional ingredients", "impure", "misbranded",

1 "contaminated", "adulterated", "perishable", "hazardous",  
 2 "unfit", "spoiled", "damaged", and similar terms, when  
 3 applied to a manufactured dairy product or product made in  
 4 semblance or in imitation of a manufactured dairy product,  
 5 are as defined in Title 50, Chapter 31.

6 (31) "Official test" means test procedures outlined in  
 7 the sources referred to under 81-22-301 concerning samples,  
 8 methods, and rules of evidence.

9 (32) "Pasteurization", "pasteurizing", and similar  
 10 terms mean the process of heating every particle of milk or  
 11 milk product to at least 145 degrees F and holding it  
 12 continuously at or above this temperature for at least 30  
 13 minutes, or to at least 161 degrees F and holding it  
 14 continuously at or above this temperature for at least 15  
 15 seconds in equipment which is properly operated and approved  
 16 by the department. Milk products that have a higher fat  
 17 content than milk or contain added sweeteners shall be  
 18 heated to at least 155 degrees F and held continuously at or  
 19 above this temperature for at least 30 minutes, or to at  
 20 least 175 degrees F and held continuously at or above this  
 21 temperature for at least 25 seconds. This definition does  
 22 not bar any other pasteurization process which has been  
 23 recognized by the United States public health service to be  
 24 equally effective and which is approved by the department.

25 (33) ~~(a) "Person" includes persons, whether natural or~~

1 ~~artificially including firms, partnerships, corporations, and~~  
2 ~~marketing associations of every description.~~

3 (b) "Person" means an individual, firm, partnership,  
4 corporation, cooperative, or other business unit or trade  
5 device.

6 (34) "Producer" means the person who exercises control  
7 over the production of milk or cream delivered to a milk or  
8 cream receiving station or manufactured dairy products plant  
9 or who receives payment for milk or cream used in  
10 manufacturing.

11 (35) "Raw milk" or "raw milk products" means milk or  
12 milk products which have not been treated by a process of  
13 pasteurization.

14 (36) "Renovated butter" or "processed butter" is the  
15 product made by melting and reworking, without the addition  
16 or use of chemicals or substances except whole milk, cream,  
17 or salt, and must contain not less than 80% of milk fat.

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

21 (38) "Skimmed milk cheese" is the sound, solid, and  
22 ripened product made from skim milk by coagulating the  
23 casein with rennet or lactic acid, with or without ripening  
24 ferments and seasoning.

25 (39) "Testing", "test", "tested", and similar words

1 mean the examination of milk, cream, or manufactured dairy  
2 products by sight, odor, taste, or biological or chemical  
3 laboratory analysis to determine their quality,  
4 wholesomeness, or composition.

5 (40) "Water ice" means a frozen product containing but  
6 not limited to the following ingredients: water, sugar,  
7 flavoring, coloring, stabilizers, and other ingredients  
8 allowed by the Code of Federal Regulations as optional  
9 ingredients."

10 Section 13. Section 81-22-204, MCA, is amended to  
11 read:

12 "81-22-204. License required for milk or cream route.  
13 It is unlawful for a person to engage in hauling milk or  
14 cream on an established milk or cream route for a  
15 ~~manufactured~~ dairy products ~~manufacturing~~ plant, milk plant,  
16 or milk or cream ~~buying-or-receiving~~ station without first  
17 procuring a license from the department. The fee for the  
18 license is \$5 annually."

19 Section 14. Section 81-22-408, MCA, is amended to  
20 read:

21 "81-22-408. Manufacturer's and wholesaler's or  
22 retailer's names to appear on package -- use of codes and  
23 numbers permitted. (1) All manufactured dairy products sold,  
24 offered, displayed, or exposed for sale at wholesale or  
25 retail in this state, wherever manufactured, must be

1 packaged in a protective wrapper or package and must have  
 2 the manufacturer's and wholesaler's or retailer's names  
 3 clearly printed in a conspicuous place on the package or  
 4 wrapper in which it is sold.

5 (2) If a manufactured dairy product is packaged in a  
 6 plant other than that of the plant whose name appears on the  
 7 package or wrapper, the package or wrapper shall also show  
 8 the name of the plant at which the product was packaged or  
 9 wrapped. However,

10 (3) ~~this~~ ~~this~~ section does not prevent the use of  
 11 codes or numbers which designate the packaged packaging or  
 12 wrapping plant when if these codes or numbers are registered  
 13 with the department."

14 Section 15. Section 81-22-413, MCA, is amended to  
 15 read:

16 "81-22-413. Pasteurization required. All milk and  
 17 cream used in the manufacture of any dairy product or  
 18 products made in semblance of ~~imitations or imitation~~ of  
 19 dairy products sold, offered for sale, purveyed, stored,  
 20 displayed, or transported in Montana shall ~~must~~ be  
 21 pasteurized. However, cheese held, stored, or aged for at  
 22 least 60 days at not less than 35 degrees F shall ~~is~~ not be  
 23 required to be made from pasteurized milk or cream but shall  
 24 ~~be required to~~ ~~must~~ be labeled "made from raw" or  
 25 "unpasteurized milk" or "unpasteurized cream", as the case

1 may be. Other cultured raw or unpasteurized dairy products  
 2 which ~~that~~ can be made safe by aging shall ~~also be required~~  
 3 to ~~must~~ be similarly aged and labeled as required above."

4 Section 16. Repealer. Sections 3-2491, 46-1701, and  
 5 46-1703, R.C.M. 1947, are repealed.

-End-

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# Montana Legislative Council

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LC0030

1979 Legislature  
Code Commissioner Bill - Summary

House Bill No. 5

AN ACT FOR THE GENERAL REVISION AND CLARIFICATION OF THE  
LAWS RELATING TO LIVESTOCK.

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

Section 1. 80-2-105. In recodification, to be technically correct, the words "this act" in the original version of this section were replaced by all the pertinent sections originally comprising "this act", which was Chapter 262, Laws of 1921, an omnibus livestock law. It is appropriate, and much less cumbersome, to merely reference the entire title.

Section 2. 81-3-231. Changed "obtainable" to "required" in subsection (1)(b) for clarification. Deleted brackets around "part" in subsection (5). "Part" was substituted for "act" in recodification, but because the new "part" includes additions to the original act (Chapter 59, Laws of 1943) the change probably was not a proper recodification change and is therefore recommended for amendment. Other grammatical clarification.

Section 3. 81-4-309. Grammatical change.

Section 4. 81-5-102. Subsections (1) and (2) are similar but vary enough that they could not be combined simply by recodification. Pertinent differences are as follows: (1) applied to "every person" while (2) applied only to "owners or their agents"; (2) is vague as to whether the intent to injure is as to just the railroad or also as to the livestock. This amendment will combine and make consistent the two subsections.

Section 5. 81-7-115. This section generally omitted reference to the mountain lion lower jaw skin, which 81-7-111 requires to be presented in the case of bounty claims for mountain lions. This amendment merely inserts such reference.

Section 6. 81-7-119. This section presently indicates that 5% of all license money collected by the county treasurers goes to the state bounty fund, whereas in fact some license fees are otherwise disposed of, i.e., butcher's license fees (81-9-102), liquor license fees (16-4-503), boxing license fee (23-3-206), vehicle license fees (7-14-2511). Also this section indicates the 5% is to be used for paying bounties, while 7-21-2105 specifies predator control, which includes more than just payment of bounties. This section is corrected by making reference to 7-21-2105, which in turn is corrected in another bill as to the proper license money.

Section 7. 81-7-121. The conduct described in this section cannot be perjury as defined in the 1973 Criminal Code because no official proceeding is involved, and it could be many things defined in the 1973 Criminal Code besides forgery. Also the penalty prescribed varies from that of the Criminal Code. This amendment will make the section consistent with the criminal code.

Section 8. 81-7-402. Added "interest" in subsection (2) for clarification.

Section 9. 81-8-311. Grammatical change.

Section 10. 81-8-609. Grammatical change.

Section 11. 81-9-424. Grammatical change.

Section 12. 81-22-101. This section is derived from R.C.M. 1947 sections 3-2404 and 3-2497, which contained duplicatory and conflicting definitions relating to manufactured dairy products. Those definitions were consolidated in recodification and appear in subsections (4), (8), (28), and (33). The amendments proposed here generally adopt the language of 3-2497, the later statute.

Section 13. 81-22-204. Changes made for uniform terminology.

Section 14. 81-22-408. Grammatical change.

Section 15. 81-22-413. Corrected typographical error in original bill.



LC0030

Section 16. Repeals 3-2491, 46-1701, and 46-1703,  
R.C.M. 1947.

Section 3-2491, R.C.M. 1947, is duplicated by 81-  
22-203.

Section 46-1701, R.C.M. 1947, is duplicated by 81-  
4-201.

Section 46-1703, R.C.M. 1947, is duplicated by 81-  
4-202.

Approved by Committee  
on Judiciary

HOUSE BILL NO. 5

INTRODUCED BY KVAALEN

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO LIVESTOCK; REPEALING SECTIONS 3-2491, 46-1701, AND 46-1703, R.C.M. 1947."

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

Section 1. Section 81-2-105, MCA, is amended to read:

"81-2-105. Authority of municipal corporations. Parts ~~1 through 3 of this chapter, 81-1-301 through 81-1-304, 81-9-201 through 81-9-204, 81-20-101, 81-21-102, and 81-21-103 do not prevent~~ Nothing in this title prevents the governing authority of a municipal corporation from enacting or enforcing ordinances for the inspection of slaughterhouses, meat depots, meat markets, meat food products, creameries, butter or cheese factories, dairies, or dairy products located, sold, or offered for sale in the limits of the municipal corporation. An ordinance may not be enforced in conflict with the powers of ~~parts 1 through 3 of this chapter, 81-1-301 through 81-1-304, 81-9-201 through 81-9-204, 81-20-101, 81-21-102, and 81-21-103~~ this title delegated to the department and its officers or agents."

Section 2. Section 81-3-231, MCA, is amended to read:

"81-3-231. Penalties. (1) A person is guilty of a misdemeanor and ~~shall be~~ is punishable as provided in subsection (6) of this section ~~when if~~ he removes livestock or causes livestock to be removed from a county in this state:

(a) without having the livestock inspected before removal ~~where if~~ an inspection is required by law;

(b) without obtaining a market consignment permit or transportation permit ~~where if~~ the permits are ~~obtainable~~ required by law;

(c) and does obtain a market consignment permit for livestock but does not deliver the livestock transported thereunder to the livestock market designated in the market consignment permit;

(d) and does obtain a transportation permit for the livestock but does not deliver the livestock transported thereunder to the destination as shown on the transportation permit and fails to have the livestock so transported inspected at the point of destination or does not file a loading tally with the carrier as provided in 81-4-607.

(2) A person who sells livestock or offers livestock for sale at a livestock market without having the livestock inspected or removes livestock or causes livestock to be removed from a livestock market without obtaining a release is guilty of a misdemeanor and is punishable as provided in

On motion rules suspended,  
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-2- THIRD READING HB 5

1 subsection (6) of this section.

2 (3) A person who ships by railroad carrier and the  
3 railroad carrier transporting livestock for which a loading  
4 tally has been filed as provided by 81-4-607 and for which  
5 shipment of livestock an inspection has not been made and  
6 ~~which~~ after shipment causes or permits the livestock to  
7 leave the custody of the railroad carrier at a place other  
8 than where this state regularly maintains a stock inspector  
9 is guilty of a misdemeanor and ~~shall be~~ is punishable as  
10 provided in subsection (6) of this section.

11 (4) A person who has in his charge livestock being  
12 removed from a county in the state for which an inspection  
13 certificate, a market consignment permit, or a market  
14 release certificate has been issued and fails to have in his  
15 possession accompanying the livestock the inspection  
16 certificate, market consignment permit, or a market release  
17 certificate as issued for the livestock, or who, having the  
18 certificate of inspection, market consignment permit, or  
19 market release certificate, fails to exhibit it to a  
20 sheriff, deputy sheriff, constable, highway patrolman, state  
21 stock inspector, or deputy state stock inspector at his  
22 request is guilty of a misdemeanor and is punishable as  
23 provided in subsection (6) of this section.

24 (5) Except as specifically otherwise provided, a  
25 person violating any of the provisions of this [part] is

1 guilty of a misdemeanor and is punishable as provided in  
2 subsection (6) of this section.

3 (6) Upon conviction under this section, a person,  
4 firm, association, or corporation under this section shall  
5 be fined not less than \$50 or more than \$500 or imprisoned  
6 in the county jail for a period of not more than 6 months  
7 or both fined and imprisoned. Of all fines assessed and  
8 collected under this section, 50% shall be paid into the  
9 state treasury and credited to the earmarked revenue fund  
10 for the use of the department, and 50% shall be paid into  
11 the general fund of the county in which the conviction  
12 occurred."

13 Section 3. Section 81-4-309, MCA, is amended to read:

14 "81-4-309. Unlawful introduction of livestock into  
15 herd district a misdemeanor -- penalty. Any person not the  
16 owner or person in charge of any livestock who ~~shall drive~~  
17 ~~put~~ ~~place~~ ~~or introduce~~ causes any livestock into to enter  
18 any herd district established under the provisions of  
19 81-4-301 through 81-4-309 ~~or who shall so place, move, or~~  
20 ~~interfere with such livestock that they will trespass on~~  
21 ~~such herd district shall be~~ is guilty of a misdemeanor and  
22 upon conviction thereof be is subject to a fine of not less  
23 than \$50 or ~~shall be confined~~ confinement in the county  
24 jail not less than 60 days or both such fine and  
25 imprisonment and ~~shall be~~ is liable for all damages and

1 costs occurring from such trespass. For the purposes of this  
 2 section, each separate animal so moved, placed, or  
 3 interfered with, shall constitute ~~constitutes~~ a separate  
 4 offense."

5 Section 4. Section 81-5-102, MCA, is amended to read:

6 "81-5-102. Driving animals upon railroad track. ~~It~~  
 7 Every If a person who willfully drives any an animal upon  
 8 any a railroad track with intent to injure the corporation  
 9 or persons owning the railroad, and such animal is killed or  
 10 injured thereby, ~~the person~~ is punishable by imprisonment in  
 11 the state prison not exceeding 5 years, and is

(2) If the 146 -----

12 owner or owners, or his or their duty authorized agent or  
 13 agents, of any animal or animals mentioned in 69-14-707  
 14 shall drive the same upon the track of any such corporation,  
 15 association, company, person or persons with the intention  
 16 to injure it or them and such animal or animals shall be  
 17 killed or injured, such owner or owners shall be liable for  
 18 all injury or damage occasioned by reason of such act and  
 19 shall be punished as provided in subsection (1)."

20 Section 5. Section 81-7-115, MCA, is amended to read:

21 "81-7-115. Duty of county clerk. (1) The county clerk  
 22 shall, on receipt of each certificate, file the certificate  
 23 in the order in which it is received and safely keep it  
 24 until the arrival of the skin or skins mentioned in the  
 25 certificate. On receipt of the skin or skins he shall call

1 to his assistance either the county treasurer or, in his  
 2 absence, the clerk of the district court who, with both  
 3 present in order to prevent fraud, shall examine each scalp  
 4 or mountain lion lower jaw skin. If the examination  
 5 discloses that the scalps or lower jaw skins agree with the  
 6 number and kind of scalps or lower jaw of ~~mountain lion~~  
 7 skins mentioned in the certificate, the county clerk shall,  
 8 in the presence of the treasurer or clerk of the district  
 9 court, destroy the scalps or lower jaw skins by fire.

10 (2) The county clerk shall then make out and deliver  
 11 to the person named in that certificate a second certificate  
 12 showing the statement of the facts contained in the  
 13 certificate to the sheriff, undersheriff, or deputy sheriff,  
 14 with the additional statement of the examination made by him  
 15 and that he found the scalps or lower jaw skins to agree  
 16 with the number and kind mentioned in the certificate of the  
 17 sheriff, undersheriff, or deputy sheriff. In no case may a  
 18 bounty certificate be issued by the county clerk for more  
 19 scalps or lower jaw skins than are actually received and  
 20 counted by him.

21 (3) The county clerk shall receive, for each scalp or  
 22 skin of a mountain lion lower jaw which he accounts for, the  
 23 sum of 5 cents to be paid quarterly by the state treasurer  
 24 out of the bounty fund.

25 (4) The county clerk shall keep a record of all

1 certificates received and issued, showing the date and  
 2 description of the number and kind of hides and the names of  
 3 the persons presenting the hides, and this record is an  
 4 official record. County clerks are required to send a report  
 5 and statement to the department on or before the 20th of  
 6 each month."

7 Section 6. Section 81-7-119, MCA, is amended to read:

8 "81-7-119. County license money to be used for payment  
 9 of bounty--~~claims~~ predator control. For the purpose of  
 10 providing for ~~the payment of bounty claims~~ predator control,  
 11 5% of all license money collected by the several county  
 12 treasurers of the state, as provided in 7-21-2105, as  
 13 amended shall be paid over by said ~~the~~ county treasurers to  
 14 the state treasurer and shall be deposited by the latter in  
 15 the earmarked revenue fund."

16 Section 7. Section 81-7-121, MCA, is amended to read:

17 "81-7-121. Falsifying certificates or affidavits --  
 18 penalty. Any person who shall falsely make ~~makes~~, ~~alter~~  
 19 alters, ~~forge~~ forges, or ~~counterfeit~~ counterfeits any of  
 20 said ~~the~~ certificates or orders shall-be-deemed-guilty-of  
 21 ~~forgery~~ and any person who shall falsely swear swears to  
 22 any affidavit provided for by 81-7-111 through 81-7-122, or  
 23 procure procures the same to be done by another, with the  
 24 intent of obtaining any one of said ~~the~~ certificates or  
 25 orders, shall-be-deemed-guilty-of-perjury--and--any--person

1 convicted--of--any--of--the--offenses--declared--in--this--section  
 2 shall-be-punished-by-imprisonment-in-the-state-prison-for--a  
 3 term--of--not--less--than--1--year--or--more--than--10--years--is  
 4 punishable as provided in Title 45."

5 Section 8. Section 81-7-402, MCA, is amended to read:

6 "81-7-402. Liability of owner of dog for damages to  
 7 livestock or poultry. (1) The owner of livestock or poultry  
 8 injured or killed by any dog may recover as liquidated  
 9 damages from the owner of the dog the actual value of the  
 10 animals killed or the value of the damages sustained by  
 11 reason of the injuries as the case may be. If two or more  
 12 dogs kept by two or more owners or keepers injure or kill  
 13 any livestock or poultry at the same time, the owners or  
 14 keepers of the dogs are jointly and severally liable for  
 15 such damages. It shall-be is no defense to said ~~the~~ action  
 16 that the owner or keeper of the dog had no knowledge of the  
 17 dog's whereabouts at or prior to the time when the dog  
 18 injured or killed livestock or poultry or that the owner or  
 19 keeper of the dog had no knowledge of the dog's disposition  
 20 or inclination to worry, kill, or injure livestock or  
 21 poultry.

22 (2) The word "owner" when used in this section in  
 23 relation to property interest in or possession of dogs shall  
 24 include includes every person who owns, harbors, or keeps a  
 25 dog."

1 Section 9. Section 81-8-311, MCA, is amended to read:

2 "81-8-311. Range stock -- taking possession under  
3 process. Whenever it is necessary for an officer or person  
4 charged with the service of process out of any of the courts  
5 of this state to take possession of any cattle or horses  
6 running at large, and commonly known as range stock, between  
7 November 1 and the next succeeding May 15, it is a  
8 sufficient service of such process for the officer or person  
9 ~~charged with the service of the same~~ within 15 days after  
10 receiving the process for service to file a copy thereof  
11 with the county clerk of the county wherein such property is  
12 running at large, with a notice appended thereto containing  
13 stating the numbers, as near as may be, and a description of  
14 said the stock by marks and brands, and stating that such  
15 property or a portion thereof, as the case may be, is  
16 attached or levied upon in pursuance of such process, with  
17 the county clerk of the county wherein such property is  
18 running at large, within 15 days after the receipt of such  
19 process for service, and such officer or person shall make  
20 due return of ~~his said proceedings upon said~~ the service of  
21 process."

22 Section 10. Section 81-8-609, MCA, is amended to read:

23 "81-8-609. Receipt of gifts, grants, or donations for  
24 research purposes. The department of livestock ~~is hereby~~  
25 authorized to may receive any gifts, grants, or donations

1 for any research of or scientific inquiries conducted under  
2 authority of this part and to use and expend the same in  
3 compliance with the conditions, if any, of such grants,  
4 gifts, and donations, ~~provided if~~ such conditions are valid  
5 under the laws of ~~the state of~~ Montana and in aid of the  
6 purposes of this part."

7 Section 11. Section 81-9-424, MCA, is amended to read:

8 "81-9-424. Sufficiency of pleading and proof in  
9 criminal prosecution. In any prosecution for the violation  
10 of the provisions of 81-9-423 it is not necessary for the  
11 state to allege in the complaint or information the  
12 ownership of the hide or of the animal from which the hide  
13 was removed, but it is sufficient to allege in the complaint  
14 or information that the owner of the hide or of the animal  
15 from which the hide was removed is unknown and the hide or  
16 animal is not the property of the defendant."

17 Section 12. Section 81-22-101, MCA, is amended to  
18 read:

19 "81-22-101. Definitions. For the purpose of this  
20 chapter, the following definitions are adopted:

21 (1) "Agent" means a person who is authorized by  
22 another person to act for him in dealing with a third  
23 person.

24 (2) "Butter" is the clean, nonrancid product made by  
25 gathering the fat of fresh ripened milk or cream into a mass

1 which also contains a small portion of the other milk  
2 constituents, with or without salt, and must contain not  
3 less than 80% of milk fat. No tolerance for deficiency in  
4 milk fat is permitted. Butter may also contain added  
5 coloring matter.

6 (3) "Cheese" is the sound, solid, and ripened product  
7 made from milk or cream by coagulating the casein with  
8 rennet or lactic acid, with or without ripening ferments and  
9 seasoning, and must contain in the water-free substance not  
10 less than 50% of milk fat, and not more than 39% of  
11 moisture. Cheese may also contain added coloring matter.

12 (4) ~~(a)~~"Cheese factory" means a place where cheese,  
13 including cream cheese, cottage cheese, creamed cottage  
14 cheese, cheese curd, cottage cheese dressing, and low-fat  
15 counterparts of cheese, either cultured or directly  
16 acidified, is made for commercial purposes.

17 ~~(b)--A--"cheese-factory"--is-a-place-where-milk-furnished~~  
18 ~~by-three-or-more-persons-is-made-into-cheese-for--commercial~~  
19 ~~purposes.~~

20 (5) "C.I.P." means the procedure by which sanitary  
21 pipelines or pieces of dairy equipment are mechanically  
22 cleaned in place by circulation when this procedure meets  
23 the 3-A accepted practices for permanently installed  
24 sanitary product-pipelines and cleaning systems.

25 (6) "Code of Federal Regulations" refers especially

1 but is not limited to Title 21 which contains the  
2 definitions and standards of identity for products as  
3 established by the food and drug administration, United  
4 States department of health, education, and welfare.

5 (7) "Cream" means the milk fat which rises to the  
6 surface when milk is allowed to stand or which is separated  
7 from milk by centrifugal force when sold, used, or intended  
8 for use in a manufactured product.

9 ~~(8) ~~(a)~~--A--"creamery"--is-a-place-where--milk--or--cream~~  
10 ~~furnished--by--three-or-more-persons--is-used-for-manufacture~~  
11 ~~into-butter-for-commercial-purposes.~~

12 ~~(b)--"Creamery" means a place where butter is made for~~  
13 ~~commercial purposes.~~

14 (9) "Culture" means the harmless lactic acid  
15 fermenting bacteria which are added to milk or cream to make  
16 manufactured dairy products like cultured buttermilk,  
17 cheese, cottage cheese, yogurt, sour cream, cream cheese,  
18 butter, and other similar products.

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

22 (11) The term "department", unless otherwise indicated,  
23 means the department of livestock provided for in Title 2,  
24 chapter 15, part 31.

25 (12) "Direct acidification", "directly acidified", and

1 similar terms mean the process of adding a food grade acid  
2 to milk or cream instead of or in addition to the adding of  
3 culture.

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

17 (14) "French ice cream", "French custard ice cream",  
18 "cooked ice cream", "ice custard", "parfaits", and similar  
19 frozen products, except sherbets and water ices, are  
20 varieties of ice cream.

21 (15) "Frozen dessert plant" means a place where  
22 products named in subsections (27)(a)(iii) through  
23 (27)(a)(ix) of this section are made for commercial  
24 purposes.

25 (16) "Fruit ice cream" shall conform to the

1 requirements of ice cream, except that the fruit ingredients  
2 must be from sound, clean, and mature fruit, and it must  
3 contain not less than 9% of milk fat.

4 (17) "Grading" means the examination of milk, cream, or  
5 products by sight, odor, taste, or laboratory analysis, the  
6 results of which determine a grade designating their  
7 quality.

8 (18) "Ice" or "ice sherbet" is the pure, clean, frozen  
9 product made from water and sugar with harmless fruit or  
10 fruit juice flavoring, with or without harmless coloring or  
11 added stabilizer composed of wholesome edible material, and  
12 must contain not less than 35/100 of 1% of acid, as  
13 determined by titrating with standard alkali and expressed  
14 as lactic acid. It may contain no milk solids.

15 (19) "Ice cream" is a frozen product made with pure,  
16 sweet milk, cream, skim milk, evaporated or condensed milk,  
17 evaporated or condensed skim milk, dry milk, dry skim milk,  
18 pure milk fat, wholesome sweet butter, or any combination of  
19 these products, with or without sweetening, or clean  
20 wholesome eggs or egg products, with or without the use of  
21 harmless flavoring and coloring. Ice cream must contain not  
22 less than 10% of milk fat, not less than 33% total solids,  
23 and may or may not contain pure and harmless edible  
24 stabilizer. Ice cream may contain not to exceed 1% gelatin.  
25 No frozen milk or milk product may be manufactured or sold



1 unless it contains at least 10% butterfat, excepting  
 2 sherbets, ices, and other exceptions under this section. All  
 3 ice cream must be manufactured from pasteurized ice cream  
 4 mix.

5 (20) An "ice cream factory" is a place where ice cream  
 6 mix is frozen into ice cream for commercial purposes.

7 (21) (a) "Ice cream mix" is a pasteurized, unfrozen  
 8 product used in the manufacture of ice cream and must comply  
 9 with the requirements for ice cream.

10 (b) "Mix" includes the liquid, unfrozen product from  
 11 which those frozen products listed under subsection  
 12 (27)(a)(iii) through (27)(a)(v) and (27)(a)(vii) through  
 13 (27)(a)(xii) are made.

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

16 (23) "Intrastate commerce" means commerce within this  
 17 state under the jurisdiction of the state and includes the  
 18 operation of a business or service establishment.

19 (24) "Manufactured dairy product" means an item  
 20 enumerated in subsection (27) or any other dairy product  
 21 made by incorporating milk or cream or converting milk or  
 22 cream into a different state of appearance or quality. For  
 23 purposes of reporting production and licensing,  
 24 "manufactured dairy product" includes but is not limited to:

25 (a) ice cream or its mix;

1 (b) French ice cream, custard ice cream, French  
 2 custard ice cream, their low-fat counterparts, or their  
 3 mixes;

4 (c) sherbets of all kinds or their mixes;

5 (d) animal or vegetable fat frozen desserts or their  
 6 mixes;

7 (e) frozen confections or their mixes when made in a  
 8 manufactured dairy products plant;

9 (f) water ices or their mixes;

10 (g) frozen dessert sandwiches, bars, cones, and  
 11 similar novelties;

12 (h) frozen dessert made of nondairy origins and other  
 13 products made in the semblance or imitation of dairy  
 14 products or their mixes when made in a manufactured dairy  
 15 products plant;

16 (i) ice milk or its mix;

17 (j) cheese of all kinds, including cottage cheese,  
 18 cheese curd, cheese dressing, and cream cheese, either  
 19 cultured or directly acidified;

20 (k) sour cream when cultured or directly acidified;

21 (l) eggnog, low-fat eggnog, eggnog-flavored milk, and  
 22 similar flavored products;

23 (m) buttermilk, cultured or from churned butter or  
 24 directly acidified;

25 (n) butter;

1 (o) yogurt--1 low-fat yogurt, or flavored yogurt,  
2 either cultured or directly acidified or frozen.

3 (25) "Manufactured dairy products plant" or "factory"  
4 means a place where milk or cream is collected and converted  
5 into a product or into a different state of appearance or  
6 quality or which manufactures those products listed in  
7 subsection (27). If only products of semblance or imitation  
8 of dairy products are made, the plant is not considered as a  
9 manufactured dairy products plant.

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

19 (27) (a) "Milk" and "cream" mean milk and cream sold,  
20 used, or intended for manufacturing purposes or for  
21 conversion into products of a form other than the form in  
22 which originally produced or products commonly known as but  
23 not limited to:

- 24 (i) butter;  
25 (ii) cheese, including cottage cheese, low-fat cottage

1 cheese, cheese curd, and cream cheese which are either  
2 cultured or directly acidified, and cheese dressings;

- 3 (iii) ice cream or its mix;  
4 (iv) frozen dessert or its mix;  
5 (v) sherbets of all kinds or their mixes;  
6 (vi) frozen ice cream bars, sandwiches, cones, and  
7 similar novelties;

8 (vii) frozen desserts or products made in the semblance  
9 or imitation of frozen dessert;

- 10 (viii) frozen confections or their mixes;  
11 (ix) water ices or their mixes;  
12 (x) ice milk or its mix;

- 13 (xi) French ice cream, French custard, or their mixes;  
14 (xii) frozen custard or its mix and frozen yogurt;  
15 (xiii) yogurt, flavored yogurt, and low-fat yogurt;

16 (xiv) sour cream--1 either cultured or directly  
17 acidified;

18 (xv) cream cheese--1 either cultured or directly  
19 acidified;

20 (xvi) buttermilk--1 either cultured, from churned  
21 butter, or directly acidified;

22 (xvii) eggnog, low-fat eggnog, eggnog-flavored milk,  
23 whipped cream, flavored toppings, and similar flavored  
24 products;

25 (xviii) dry or powdered milk; and

1 (xix) condensed milk products.

2 (b) The items specified in subsection (27)(a) of this  
3 section shall conform to the standards of identity set forth  
4 in the Code of Federal Regulations. If standards of identity  
5 are not set forth in the code, then the standards adopted by  
6 the department prevail. The labeling of manufactured dairy  
7 products shall be in accordance with the Montana Food, Drug,  
8 and Cosmetic Act.

9 (28) ~~{a}-A-"milk-or-cream-buying-or-collecting-station"~~  
10 ~~is-a-place-where-milk-or-cream-is-bought--or--collected--for~~  
11 ~~shipment--or-delivery-to-a-creamery-or-to-a-person-intending~~  
12 ~~to-make-use-of-it-for-commercial-purposes.~~

13 ~~{b}-"Milk or Cream cream station" means a place other~~  
14 ~~than a creamery where deliveries of milk or cream are~~  
15 ~~weighed, graded, sampled, tested, or collected for purchase.~~

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

24 (30) "Mislabeled", "unwholesome", "food additives",  
25 "optional ingredients", "impure", "misbranded",

1 "contaminated", "adulterated", "perishable", "hazardous",  
2 "unfit", "spoiled", "damaged", and similar terms, when  
3 applied to a manufactured dairy product or product made in  
4 semblance or in imitation of a manufactured dairy product,  
5 are as defined in Title 50, chapter 31.

6 (31) "Official test" means test procedures outlined in  
7 the sources referred to under 81-22-301 concerning samples,  
8 methods, and rules of evidence.

9 (32) "Pasteurization", "pasteurizing", and similar  
10 terms mean the process of heating every particle of milk or  
11 milk product to at least 145 degrees F and holding it  
12 continuously at or above this temperature for at least 30  
13 minutes, or to at least 161 degrees F and holding it  
14 continuously at or above this temperature for at least 15  
15 seconds in equipment which is properly operated and approved  
16 by the department. Milk products that have a higher fat  
17 content than milk or contain added sweeteners shall be  
18 heated to at least 155 degrees F and held continuously at or  
19 above this temperature for at least 30 minutes, or to at  
20 least 175 degrees F and held continuously at or above this  
21 temperature for at least 25 seconds. This definition does  
22 not bar any other pasteurization process which has been  
23 recognized by the United States public health service to be  
24 equally effective and which is approved by the department.

25 (33) ~~{a}-"Person"--includes-persons,--whether-nature--or~~

1 ~~artificially--including-firmsv-partnerships-corporationsv-and~~  
 2 ~~marketing-associations-of-every-descriptionv~~

3 ~~(b)--"Person" means an individual, firm, partnership,~~  
 4 ~~corporation, cooperative, or other business unit or trade~~  
 5 ~~device.~~

6 (34) "Producer" means the person who exercises control  
 7 over the production of milk or cream delivered to a milk or  
 8 cream receiving station or manufactured dairy products plant  
 9 or who receives payment for milk or cream used in  
 10 manufacturing.

11 (35) "Raw milk" or "raw milk products" means milk or  
 12 milk products which have not been treated by a process of  
 13 pasteurization.

14 (36) "Renovated butter" or "processed butter" is the  
 15 product made by melting and reworking, without the addition  
 16 or use of chemicals or substances except whole milk, cream,  
 17 or salt, and must contain not less than 80% of milk fat.

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

21 (38) "Skimmed milk cheese" is the sound, solid, and  
 22 ripened product made from skim milk by coagulating the  
 23 casein with rennet or lactic acid, with or without ripening  
 24 ferments and seasoning.

25 (39) "Testing", "test", "tested", and similar words

1 mean the examination of milk, cream, or manufactured dairy  
 2 products by sight, odor, taste, or biological or chemical  
 3 laboratory analysis to determine their quality,  
 4 wholesomeness, or composition.

5 (40) "Water ice" means a frozen product containing but  
 6 not limited to the following ingredients: water, sugar,  
 7 flavoring, coloring, stabilizers, and other ingredients  
 8 allowed by the Code of Federal Regulations as optional  
 9 ingredients."

10 Section 13. Section 81-22-204, MCA, is amended to  
 11 read:

12 "81-22-204. License required for milk or cream route.  
 13 It is unlawful for a person to engage in hauling milk or  
 14 cream on an established milk or cream route for a  
 15 ~~manufactured~~ dairy products manufacturing plant, milk plant,  
 16 or milk or cream buying-or-receiving station without first  
 17 procuring a license from the department. The fee for the  
 18 license is \$5 annually."

19 Section 14. Section 81-22-408, MCA, is amended to  
 20 read:

21 "81-22-408. Manufacturer's and wholesaler's or  
 22 retailer's names to appear on package -- use of codes and  
 23 numbers permitted. (1) All manufactured dairy products sold,  
 24 offered, displayed, or exposed for sale at wholesale or  
 25 retail in this state, wherever manufactured, must be

1 packaged in a protective wrapper or package and must have  
 2 the manufacturer's and wholesaler's or retailer's names  
 3 clearly printed in a conspicuous place on the package or  
 4 wrapper in which it is sold.

5 (2) If a manufactured dairy product is packaged in a  
 6 plant other than that of the plant whose name appears on the  
 7 package or wrapper, the package or wrapper shall also show  
 8 the name of the plant at which the product was packaged or  
 9 wrapped. However,

10 ~~(3) this~~ this section does not prevent the use of  
 11 codes or numbers which designate the packaged ~~packaging~~ or  
 12 wrapping plant when if these codes or numbers are registered  
 13 with the department."

14 Section 15. Section 81-22-413, MCA, is amended to  
 15 read:

16 "81-22-413. Pasteurization required. All milk and  
 17 cream used in the manufacture of any dairy product or  
 18 products made in semblance ~~of imitations or imitation~~ of  
 19 dairy products sold, offered for sale, purveyed, stored,  
 20 displayed, or transported in Montana shall ~~is~~ must be  
 21 pasteurized. However, cheese held, stored, or aged for at  
 22 least 60 days at not less than 35 degrees F shall ~~is~~ not be  
 23 required to be made from pasteurized milk or cream but shall  
 24 ~~be--required--to~~ must be labeled "made from raw" or  
 25 "unpasteurized milk" or "unpasteurized cream", as the case

1 may be. Other cultured raw or unpasteurized dairy products  
 2 which ~~that~~ can be made safe by aging shall ~~also be required~~  
 3 to must be similarly aged and labeled as required above."

4 Section 16. Repealer. Sections 3-2491, 46-1701, and  
 5 46-1703, R.C.M. 1947, are repealed.

-End-

1 HOUSE BILL NO. 5  
 2 INTRODUCED BY KVAALEN  
 3 BY REQUEST OF THE CODE COMMISSIONER  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6 CLARIFY THE LAW RELATING TO LIVESTOCK; REPEALING SECTIONS  
 7 3-2491, 46-1701, AND 46-1703, R.C.M. 1947."  
 8

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

10 Section 1. Section 81-2-105, MCA, is amended to read:

11 "81-2-105. Authority of municipal corporations. ~~Parts~~  
 12 ~~1--through--3--of--this--chapter, 81-1-301--through--81-1-304,~~  
 13 ~~81-9-201--through--81-9-204, 81-20-101, 81-21-102, and~~  
 14 ~~81-21-103--do-not-prevent~~ Nothing in this title prevents the  
 15 governing authority of a municipal corporation from enacting  
 16 or enforcing ordinances for the inspection of  
 17 slaughterhouses, meat depots, meat markets, meat food  
 18 products, creameries, butter or cheese factories, dairies,  
 19 or dairy products, located, sold, or offered for sale in the  
 20 limits of the municipal corporation. An ordinance may not be  
 21 enforced in conflict with the powers of ~~parts 1 through 3 of~~  
 22 ~~this chapter, 81-1-301--through--81-1-304, 81-9-201--through~~  
 23 ~~81-9-204, 81-20-101, 81-21-102, and 81-21-103~~ this title  
 24 delegated to the department and its officers or agents."  
 25

Section 2. Section 81-3-231, MCA, is amended to read:

1 "81-3-231. Penalties. (1) A person is guilty of a  
 2 misdemeanor and ~~shall--be~~ is punishable as provided in  
 3 subsection (6) of this section ~~when~~ if he removes livestock  
 4 or causes livestock to be removed from a county in this  
 5 state:

6 (a) without having the livestock inspected before  
 7 removal ~~where~~ if an inspection is required by law;

8 (b) without obtaining a market consignment permit or  
 9 transportation permit, ~~where~~ if the permits are ~~obtainable~~  
 10 required by law;

11 (c) and does obtain a market consignment permit for  
 12 livestock but does not deliver the livestock transported  
 13 thereunder to the livestock market designated in the market  
 14 consignment permit;

15 (d) and does obtain a transportation permit for the  
 16 livestock but does not deliver the livestock transported  
 17 thereunder to the destination as shown on the transportation  
 18 permit and fails to have the livestock so transported  
 19 inspected at the point of destination or does not file a  
 20 loading tally with the carrier as provided in 81-4-607.

21 (2) A person who sells livestock or offers livestock  
 22 for sale at a livestock market without having the livestock  
 23 inspected or removes livestock or causes livestock to be  
 24 removed from a livestock market without obtaining a release  
 25 is guilty of a misdemeanor and is punishable as provided in

1 subsection (6) of this section.

2 (3) A person who ships by railroad carrier and the  
 3 railroad carrier transporting livestock for which a loading  
 4 tally has been filed as provided by 81-4-607 and for which  
 5 shipment of livestock an inspection has not been made and  
 6 ~~which~~ after shipment, causes or permits the livestock to  
 7 leave the custody of the railroad carrier at a place other  
 8 than where this state regularly maintains a stock inspector  
 9 is guilty of a misdemeanor and ~~shall--be~~ is punishable as  
 10 provided in subsection (6) of this section.

11 (4) A person who has in his charge livestock being  
 12 removed from a county in the state for which an inspection  
 13 certificate, a market consignment permit, or a market  
 14 release certificate has been issued and fails to have in his  
 15 possession accompanying the livestock the inspection  
 16 certificate, market consignment permit, or a market release  
 17 certificate as issued for the livestock, or who, having the  
 18 certificate of inspection, market consignment permit, or  
 19 market release certificate, fails to exhibit it to a  
 20 sheriff, deputy sheriff, constable, highway patrolman, state  
 21 stock inspector, or deputy state stock inspector at his  
 22 request is guilty of a misdemeanor and is punishable as  
 23 provided in subsection (6) of this section.

24 (5) Except as specifically otherwise provided, a  
 25 person violating any of the provisions of this {part} is

1 guilty of a misdemeanor and is punishable as provided in  
 2 subsection (6) of this section.

3 (6) Upon conviction under this section, a person,  
 4 firm, association, or corporation ~~under this section~~ shall  
 5 be fined not less than \$50 or more than \$500 or imprisoned  
 6 in the county jail for a period of not more than 6 months,  
 7 or both fined and imprisoned. Of all fines assessed and  
 8 collected under this section, 50% shall be paid into the  
 9 state treasury and credited to the earmarked revenue fund  
 10 for the use of the department, and 50% shall be paid into  
 11 the general fund of the county in which the conviction  
 12 occurred."

13 Section 3. Section 81-4-309, MCA, is amended to read:  
 14 "81-4-309. Unlawful introduction of livestock into  
 15 herd district a misdemeanor -- penalty. Any person not the  
 16 owner or person in charge of any livestock who ~~shall--drive~~  
 17 ~~put--place--or--introduce~~ causes any livestock to enter  
 18 any herd district established under the provisions of  
 19 81-4-301 through 81-4-309 ~~or who shall so place, move, or~~  
 20 ~~interfere with such livestock that they will trespass on~~  
 21 ~~such herd district shall be~~ is guilty of a misdemeanor and  
 22 upon conviction thereof be is subject to a fine of not less  
 23 than \$50 or ~~shall--be confined~~ confinement in the county  
 24 jail not less than 60 days or both such fine and  
 25 imprisonment and ~~shall--be~~ is liable for all damages and

1 costs occurring from such trespass. For the purposes of this  
 2 section, each separate animal so ~~moved, placed, or~~  
 3 ~~interfered with shall constitute~~ constitutes a separate  
 4 offense."

5 Section 4. Section 81-5-102, MCA, is amended to read:

6 "81-5-102. Driving animals upon railroad track. ~~(1)~~  
 7 Every if a person who willfully drives any an animal upon  
 8 any a railroad track with intent to injure the corporation  
 9 or persons owning the railroad and such animal is killed or  
 10 injured thereby, the person is punishable by imprisonment in  
 11 the state prison not exceeding 5 years and is

12 ~~(2) If the owner or owners or his or their duty~~  
 13 ~~authorized agent or agents of any animal or animals~~  
 14 ~~mentioned in 69-14-707 shall drive the same upon the track~~  
 15 ~~of any such corporation, association, company, person, or~~  
 16 ~~persons with the intention to injure it or them and such~~  
 17 ~~animal or animals shall be killed or injured, such owner or~~  
 18 ~~owners shall be liable for all injury or damage occasioned~~  
 19 ~~by reason of such act and shall be punished as provided in~~  
 20 ~~subsection (1)."~~

21 Section 5. Section 81-7-115, MCA, is amended to read:

22 "81-7-115. Duty of county clerk. (1) The county clerk  
 23 shall, on receipt of each certificate, file the certificate  
 24 in the order in which it is received and safely keep it  
 25 until the arrival of the skin or skins mentioned in the

1 certificate. On receipt of the skin or skins he shall call  
 2 to his assistance either the county treasurer or, in his  
 3 absence, the clerk of the district court who, with both  
 4 present in order to prevent fraud, shall examine each scalp  
 5 or mountain lion lower jaw skin. If the examination  
 6 discloses that the scalps or lower jaw skins agree with the  
 7 number and kind of scalps or lower jaw ~~of mountain lion~~  
 8 skins mentioned in the certificate, the county clerk shall,  
 9 in the presence of the treasurer or clerk of the district  
 10 court, destroy the scalps or lower jaw skins by fire.

11 (2) The county clerk shall then make out and deliver  
 12 to the person named in that certificate a second certificate  
 13 showing the statement of the facts contained in the  
 14 certificate to the sheriff, undersheriff, or deputy sheriff,  
 15 with the additional statement of the examination made by him  
 16 and that he found the scalps or lower jaw skins to agree  
 17 with the number and kind mentioned in the certificate of the  
 18 sheriff, undersheriff, or deputy sheriff. In no case may a  
 19 bounty certificate be issued by the county clerk for more  
 20 scalps or lower jaw skins than are actually received and  
 21 counted by him.

22 (3) The county clerk shall receive, for each scalp or  
 23 skin of a mountain lion lower jaw which he accounts for, the  
 24 sum of 5 cents to be paid quarterly by the state treasurer  
 25 out of the bounty fund.



1 (4) The county clerk shall keep a record of all  
 2 certificates received and issued, showing the date and  
 3 description of the number and kind of hides and the names of  
 4 the persons presenting the hides, and this record is an  
 5 official record. County clerks are required to send a report  
 6 and statement to the department on or before the 20th of  
 7 each month."

8 Section 6. Section 81-7-119, MCA, is amended to read:  
 9 "81-7-119. County license money to be used for payment  
 10 of bounty--~~claims~~ predator control. For the purpose of  
 11 providing for the-payment-of-bounty-claims predator control,  
 12 5% of all license money collected by the several county  
 13 treasurers of the state, as provided in 7-21-2105, as  
 14 amended shall be paid over by said the county treasurers to  
 15 the state treasurer and shall be deposited by the latter in  
 16 the earmarked revenue fund."

17 Section 7. Section 81-7-121, MCA, is amended to read:  
 18 "81-7-121. Falsifying certificates or affidavits --  
 19 penalty. Any person who shall falsely ~~make~~ makes, ~~alter~~  
 20 alters, ~~forge~~ forges, or ~~counterfeit~~ counterfeits any of  
 21 said the certificates or orders shall-be--deemed--guilty--of  
 22 forgery, and any person who shall falsely swear swears to  
 23 any affidavit provided for by 81-7-111 through 81-7-122, or  
 24 procure procures the same to be done by another, with the  
 25 intent of obtaining any one of said the certificates or

1 orders, shall--be--deemed-guilty-of-perjury-and-any-person  
 2 convicted-of-any-of-the-offenses-declared--in--this--section  
 3 shall--be-punished-by-imprisonment-in-the-state-prison-for-a  
 4 term-of-not-less-than-1--year--or--more--than--10--years is  
 5 punishable as provided in Title 45."

6 Section 8. Section 81-7-402, MCA, is amended to read:  
 7 "81-7-402. Liability of owner of dog for damages to  
 8 livestock or poultry. (1) The owner of livestock or poultry  
 9 injured or killed by any dog may recover as liquidated  
 10 damages from the owner of the dog the actual value of the  
 11 animals killed or the value of the damages sustained by  
 12 reason of the injuries as the case may be. If two or more  
 13 dogs kept by two or more owners or keepers injure or kill  
 14 any livestock or poultry at the same time, the owners or  
 15 keepers of the dogs are jointly and severally liable for  
 16 such damages. It shall-be is no defense to said the action  
 17 that the owner or keeper of the dog had no knowledge of the  
 18 dog's whereabouts at or prior to the time when the dog  
 19 injured or killed livestock or poultry or that the owner or  
 20 keeper of the dog had no knowledge of the dog's disposition  
 21 or inclination to worry, kill, or injure livestock or  
 22 poultry.

23 (2) The word "owner" when used in this section in  
 24 relation to property interest in or possession of dogs shall  
 25 include includes every person who owns, harbors, or keeps a

1 dog."

2 Section 9. Section 81-8-311, MCA, is amended to read:

3 "81-8-311. Range stock -- taking possession under  
4 process. Whenever it is necessary for an officer or person  
5 charged with the service of process out of any of the courts  
6 of this state to take possession of any cattle or horses  
7 running at large, and commonly known as range stock, between  
8 November 1 and the next succeeding May 15, it is a  
9 sufficient service of such process for the officer or person  
10 ~~charged with the service of the same~~ within 15 days after  
11 receiving the process for service to file a copy thereof  
12 with the county clerk of the county wherein such property is  
13 running at large, with a notice appended thereto containing  
14 stating the number, as near as may be, and a description of  
15 said ~~the~~ stock by marks and brands, and stating that such  
16 property or a portion thereof, as the case may be, is  
17 attached or levied upon in pursuance of such process, with  
18 ~~the county clerk of the county wherein such property is~~  
19 ~~running at large, within 15 days after the receipt of such~~  
20 ~~process for service~~ and such officer or person shall make  
21 due return of his ~~said proceedings upon said~~ the service of  
22 process."

23 Section 10. Section 81-8-609, MCA, is amended to read:

24 "81-8-609. Receipt of gifts, grants, or donations for  
25 research purposes. The department of livestock ~~is hereby~~

1 ~~authorized to~~ may receive any gifts, grants, or donations  
2 for any research of or scientific inquiries conducted under  
3 authority of this part and ~~to use and expend the same in~~  
4 compliance with the conditions, if any, of such grants,  
5 gifts, and donations, ~~provided if~~ provided if such conditions are valid  
6 under the laws of ~~the state of~~ Montana and in aid of the  
7 purposes of this part."

8 Section 11. Section 81-9-424, MCA, is amended to read:

9 "81-9-424. Sufficiency of pleading and proof in  
10 criminal prosecution. In any prosecution for the violation  
11 of the provisions of 81-9-423 it is not necessary for the  
12 state to allege in the complaint or information the  
13 ownership of the hide or of the animal from which the hide  
14 was removed, but it is sufficient to allege in the complaint  
15 or information that the owner of the hide or of the animal  
16 from which the hide was removed is unknown and the hide or  
17 animal is not the property of the defendant."

18 Section 12. Section 81-22-101, MCA, is amended to  
19 read:

20 "81-22-101. Definitions. For the purpose of this  
21 chapter, the following definitions are adopted:

22 (1) "Agent" means a person who is authorized by  
23 another person to act for him in dealing with a third  
24 person.

25 (2) "Butter" is the clean, nonrancid product ~~made by~~

1 gathering the fat of fresh ripened milk or cream into a mass  
2 which also contains a small portion of the other milk  
3 constituents, with or without salt, and must contain not  
4 less than 80% of milk fat. No tolerance for deficiency in  
5 milk fat is permitted. Butter may also contain added  
6 coloring matter.

7 (3) "Cheese" is the sound, solid, and ripened product  
8 made from milk or cream by coagulating the casein with  
9 rennet or lactic acid, with or without ripening ferments and  
10 seasoning, and must contain in the water-free substance not  
11 less than 50% of milk fat, and not more than 39% of  
12 moisture. Cheese may also contain added coloring matter.

13 (4) (a) "Cheese factory" means a place where cheese,  
14 including cream cheese, cottage cheese, creamed cottage  
15 cheese, cheese curd, cottage cheese dressing, and low-fat  
16 counterparts of cheese, either cultured or directly  
17 acidified, is made for commercial purposes.

18 (b) "A cheese factory" is a place where milk furnished  
19 by three or more persons is made into cheese for commercial  
20 purposes.

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

1 (6) "Code of Federal Regulations" refers especially  
2 but is not limited to Title 21 which contains the  
3 definitions and standards of identity for products as  
4 established by the food and drug administration, United  
5 States department of health, education, and welfare.

6 (7) "Cream" means the milk fat which rises to the  
7 surface when milk is allowed to stand or which is separated  
8 from milk by centrifugal force when sold, used, or intended  
9 for use in a manufactured product.

10 (8) (a) "Creamery" is a place where milk or cream  
11 furnished by three or more persons is used for manufacture  
12 into butter for commercial purposes.

13 (b) "Creamery" means a place where butter is made for  
14 commercial purposes.

15 (9) "Culture" means the harmless lactic acid  
16 fermenting bacteria which are added to milk or cream to make  
17 manufactured dairy products like cultured buttermilk,  
18 cheese, cottage cheese, yogurt, sour cream, cream cheese,  
19 butter, and other similar products.

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

23 (11) The term "department", unless otherwise indicated,  
24 means the department of livestock provided for in Title 2,  
25 chapter 15, part 31.

1           (12) "Direct acidification", "directly acidified", and  
2 similar terms mean the process of adding a food grade acid  
3 to milk or cream instead of or in addition to the adding of  
4 culture.

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

18           (14) "French ice cream", "French custard ice cream",  
19 "cooked ice cream", "ice custard", "parfaits", and similar  
20 frozen products, except sherbets and water ices, are  
21 varieties of ice cream.

22           (15) "Frozen dessert plant" means a place where  
23 products named in subsections (27)(a)(iii) through  
24 (27)(a)(ix) of this section are made for commercial  
25 purposes.

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

5           (17) "Grading" means the examination of milk, cream, or  
6 products by sight, odor, taste, or laboratory analysis, the  
7 results of which determine a grade designating their  
8 quality.

9           (18) "Ice" or "ice sherbet" is the pure, clean, frozen  
10 product made from water and sugar with harmless fruit or  
11 fruit juice flavoring, with or without harmless coloring or  
12 added stabilizer composed of wholesome edible material, and  
13 must contain not less than 35/100 of 1% of acid, as  
14 determined by titrating with standard alkali and expressed  
15 as lactic acid. It may contain no milk solids.

16           (19) "Ice cream" is a frozen product made with pure,  
17 sweet milk, cream, skim milk, evaporated or condensed milk,  
18 evaporated or condensed skim milk, dry milk, dry skim milk,  
19 pure milk fat, wholesome sweet butter, or any combination of  
20 these products, with or without sweetening, or clean  
21 wholesome eggs or egg products, with or without the use of  
22 harmless flavoring and coloring. Ice cream must contain not  
23 less than 10% of milk fat, not less than 33% total solids,  
24 and may or may not contain pure and harmless edible  
25 stabilizer. Ice cream may contain not to exceed 1% gelatin.

1 No frozen milk or milk product may be manufactured or sold  
 2 unless it contains at least 10% butterfat, excepting  
 3 sherbets, ices, and other exceptions under this section. All  
 4 ice cream must be manufactured from pasteurized ice cream  
 5 mix.

6 (20) An "ice cream factory" is a place where ice cream  
 7 mix is frozen into ice cream for commercial purposes.

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

11 (b) "Mix" includes the liquid, unfrozen product from  
 12 which those frozen products listed under subsection  
 13 (27)(a)(iii) through (27)(a)(v) and (27)(a)(vii) through  
 14 (27)(a)(xii) are made.

15 (22) An "ice cream mix factory" is a place where ice  
 16 cream mix is made.

17 (23) "Intrastate commerce" means commerce within this  
 18 state under the jurisdiction of the state and includes the  
 19 operation of a business or service establishment.

20 (24) "Manufactured dairy product" means an item  
 21 enumerated in subsection (27) or any other dairy product  
 22 made by incorporating milk or cream or converting milk or  
 23 cream into a different state of appearance or quality. For  
 24 purposes of reporting production and licensing,  
 25 "manufactured dairy product" includes but is not limited to:

- 1 (a) ice cream or its mix;
- 2 (b) French ice cream, custard ice cream, French
- 3 custard ice cream, their low-fat counterparts, or their
- 4 mixes;
- 5 (c) sherbets of all kinds or their mixes;
- 6 (d) animal or vegetable fat frozen desserts or their
- 7 mixes;
- 8 (e) frozen confections or their mixes when made in a
- 9 manufactured dairy products plant;
- 10 (f) water ices or their mixes;
- 11 (g) frozen dessert sandwiches, bars, cones, and
- 12 similar novelties;
- 13 (h) frozen dessert made of nondairy origins and other
- 14 products made in the semblance or imitation of dairy
- 15 products or their mixes when made in a manufactured dairy
- 16 products plant;
- 17 (i) ice milk or its mix;
- 18 (j) cheese of all kinds, including cottage cheese,
- 19 cheese curd, cheese dressing, and cream cheese, either
- 20 cultured or directly acidified;
- 21 (k) sour cream when cultured or directly acidified;
- 22 (l) eggnog, low-fat eggnog, eggnog-flavored milk, and
- 23 similar flavored products;
- 24 (m) buttermilk, cultured or from churned butter or
- 25 directly acidified;

1 (n) butter;

2 (o) yogurt--1 low-fat yogurt, or flavored yogurt,  
3 either cultured or directly acidified or frozen.

4 (25) "Manufactured dairy products plant" or "factory"  
5 means a place where milk or cream is collected and converted  
6 into a product or into a different state of appearance or  
7 quality or which manufactures those products listed in  
8 subsection (27). If only products of semblance or imitation  
9 of dairy products are made, the plant is not considered as a  
10 manufactured dairy products plant.

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

20 (27) (a) "Milk" and "cream" mean milk and cream sold,  
21 used, or intended for manufacturing purposes or for  
22 conversion into products of a form other than the form in  
23 which originally produced or products commonly known as but  
24 not limited to:

25 (i) butter;

1 (ii) cheese, including cottage cheese, low-fat cottage  
2 cheese, cheese curd, and cream cheese which are either  
3 cultured or directly acidified, and cheese dressings;

4 (iii) ice cream or its mix;

5 (iv) frozen dessert or its mix;

6 (v) sherbets of all kinds or their mixes;

7 (vi) frozen ice cream bars, sandwiches, cones, and  
8 similar novelties;

9 (vii) frozen desserts or products made in the semblance  
10 or imitation of frozen dessert;

11 (viii) frozen confections or their mixes;

12 (ix) water ices or their mixes;

13 (x) ice milk or its mix;

14 (xi) French ice cream, French custard, or their mixes;

15 (xii) frozen custard or its mix and frozen yogurt;

16 (xiii) yogurt, flavored yogurt, and low-fat yogurt;

17 (xiv) sour cream--1 either cultured or directly  
18 acidified;

19 (xv) cream cheese--1 either cultured or directly  
20 acidified;

21 (xvi) buttermilk--1 either cultured, from churned  
22 butter, or directly acidified;

23 (xvii) eggnog, low-fat eggnog, eggnog-flavored milk,  
24 whipped cream, flavored toppings, and similar flavored  
25 products;

- 1 (xviii) dry or powdered milk; and
- 2 (xix) condensed milk products.

3 (b) The items specified in subsection (27)(a) of this  
 4 section shall conform to the standards of identity set forth  
 5 in the Code of Federal Regulations. If standards of identity  
 6 are not set forth in the code, then the standards adopted by  
 7 the department prevail. The labeling of manufactured dairy  
 8 products shall be in accordance with the Montana Food, Drug,  
 9 and Cosmetic Act.

10 (28) ~~{a}-A-"milk-or-cream-buying-or-collecting-station"~~  
 11 ~~is--a--place--where--milk--or--cream--is--bought--or--collected--for~~  
 12 ~~shipment--or--delivery--to--a--creamery--or--to--a--person--intending~~  
 13 ~~to--make--use--of--it--for--commercial--purposes.~~

14 {b}--"Milk or Cream ~~cream~~ station" means a place other  
 15 than a creamery where deliveries of milk or cream are  
 16 weighed, graded, sampled, tested, or collected for purchase.

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

25 (30) "Misbranded", "unwholesome", "food additives",

1 "optional ingredients", "impure", "misbranded",  
 2 "contaminated", "adulterated", "perishable", "hazardous",  
 3 "unfit", "spoiled", "damaged", and similar terms, when  
 4 applied to a manufactured dairy product or product made in  
 5 semblance or in imitation of a manufactured dairy product,  
 6 are as defined in Title 50, chapter 31.

7 (31) "Official test" means test procedures outlined in  
 8 the sources referred to under 81-22-301 concerning samples,  
 9 methods, and rules of evidence.

10 (32) "Pasteurization", "pasteurizing", and similar  
 11 terms mean the process of heating every particle of milk or  
 12 milk product to at least 145 degrees F and holding it  
 13 continuously at or above this temperature for at least 30  
 14 minutes, or to at least 161 degrees F and holding it  
 15 continuously at or above this temperature for at least 15  
 16 seconds in equipment which is properly operated and approved  
 17 by the department. Milk products that have a higher fat  
 18 content than milk or contain added sweeteners shall be  
 19 heated to at least 155 degrees F and held continuously at or  
 20 above this temperature for at least 30 minutes, or to at  
 21 least 175 degrees F and held continuously at or above this  
 22 temperature for at least 25 seconds. This definition does  
 23 not bar any other pasteurization process which has been  
 24 recognized by the United States public health service to be  
 25 equally effective and which is approved by the department.

1           (33) ~~(a) "Person" includes persons, whether natural or~~  
2 ~~artificial, including firms, partnerships, corporations, and~~  
3 ~~marketing associations of every description.~~

4           **(b) "Person" means an individual, firm, partnership,**  
5 **corporation, cooperative, or other business unit or trade**  
6 **device.**

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

12           (35) "Raw milk" or "raw milk products" means milk or  
13 milk products which have not been treated by a process of  
14 pasteurization.

15           (36) "Renovated butter" or "processed butter" is the  
16 product made by melting and reworking, without the addition  
17 or use of chemicals or substances except whole milk, cream,  
18 or salt, and must contain not less than 80% of milk fat.

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

22           (38) "Skimmed milk cheese" is the sound, solid, and  
23 ripened product made from skim milk by coagulating the  
24 casein with rennet or lactic acid, with or without ripening  
25 ferments and seasoning.

1           (39) "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           (40) "Water ice" means a frozen product containing but  
7 not limited to the following ingredients: water, sugar,  
8 flavoring, coloring, stabilizers, and other ingredients  
9 allowed by the Code of Federal Regulations as optional  
10 ingredients."

11           Section 13. Section 81-22-204, MCA, is amended to  
12 read:

13           "81-22-204. License required for milk or cream route.  
14 It is unlawful for a person to engage in hauling milk or  
15 cream on an established milk or cream route for a  
16 ~~manufactured~~ dairy products manufacturing plant, milk plant,  
17 or milk or cream buying-or-receiving station without first  
18 procuring a license from the department. The fee for the  
19 license is \$5 annually."

20           Section 14. Section 81-22-408, MCA, is amended to  
21 read:

22           "81-22-408. Manufacturer's and wholesaler's or  
23 retailer's names to appear on package -- use of codes and  
24 numbers permitted. 11 All manufactured dairy products sold,  
25 offered, displayed, or exposed for sale at wholesale or



1 retail in this state, wherever manufactured, must be  
 2 packaged in a protective wrapper or package and must have  
 3 the manufacturer's and wholesaler's or retailer's names  
 4 clearly printed in a conspicuous place on the package or  
 5 wrapper in which it is sold.

6 (2) If a manufactured dairy product is packaged in a  
 7 plant other than that of the plant whose name appears on the  
 8 package or wrapper, the package or wrapper shall also show  
 9 the name of the plant at which the product was packaged or  
 10 wrapped. However,

11 ~~(3) this~~ this section does not prevent the use of  
 12 codes or numbers which designate the packaged ~~packaging~~ or  
 13 wrapping plant when ~~if~~ these codes or numbers are registered  
 14 with the department."

15 Section 15. Section 81-22-413, MCA, is amended to  
 16 read:

17 "81-22-413. Pasteurization required. All milk and  
 18 cream used in the manufacture of any dairy product or  
 19 products made in semblance of ~~imitations~~ or imitation of  
 20 dairy products sold, offered for sale, purveyed, stored,  
 21 displayed, or transported in Montana ~~shall~~ must be  
 22 pasteurized. However, cheese held, stored, or aged for at  
 23 least 60 days at not less than 35 degrees F ~~shall~~ is not be  
 24 required to be made from pasteurized milk or cream but ~~shall~~  
 25 ~~be---required---~~ must be labeled "made from raw" or

1 "unpasteurized milk" or "unpasteurized cream", as the case  
 2 may be. Other cultured raw or unpasteurized dairy products  
 3 which ~~that~~ can be made safe by aging ~~shall~~ also be ~~required~~  
 4 to must be similarly aged and labeled as required above."

5 Section 16. Repealer. Sections 3-2491, 46-1701, and  
 6 46-1703, R.C.M. 1947, are repealed.

-End-

## 1 HOUSE BILL NO. 5

2 INTRODUCED BY KVAALEN

3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LAW RELATING TO LIVESTOCK; REPEALING SECTIONS  
7 3-2491, 46-1701, AND 46-1703, R.C.M. 1947."

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

10 Section 1. Section 81-2-105, MCA, is amended to read:

11 "81-2-105. Authority of municipal corporations. Parts  
12 ~~1--through--3--of--this--chapter--81-1-301--through--81-1-304~~  
13 ~~81-9-201--through--81-9-204--81-20-101--81-21-102--and~~  
14 ~~81-21-103--do-not-prevent~~ Nothing in this title prevents the  
15 governing authority of a municipal corporation from enacting  
16 or enforcing ordinances for the inspection of  
17 slaughterhouses, meat depots, meat markets, meat food  
18 products, creameries, butter or cheese factories, dairies,  
19 or dairy products, located, sold, or offered for sale in the  
20 limits of the municipal corporation. An ordinance may not be  
21 enforced in conflict with the powers of ~~parts 1 through 3 of~~  
22 ~~this--chapter--81-1-301--through--81-1-304, 81-9-201--through~~  
23 ~~81-9-204, 81-20-101, 81-21-102,--and--81-21-103~~ this title  
24 delegated to the department and its officers or agents."

25 Section 2. Section 81-3-231, MCA, is amended to read:

1 "81-3-231. Penalties. (1) A person is guilty of a  
2 misdemeanor and ~~shall--be~~ is punishable as provided in  
3 subsection (6) of this section when if he removes livestock  
4 or causes livestock to be removed from a county in this  
5 state:

6 (a) without having the livestock inspected before  
7 removal where if an inspection is required by law;8 (b) without obtaining a market consignment permit or  
9 transportation permit where if the permits are ~~obtainable~~  
10 required by law;11 (c) and does obtain a market consignment permit for  
12 livestock but does not deliver the livestock transported  
13 thereunder to the livestock market designated in the market  
14 consignment permit;15 (d) and does obtain a transportation permit for the  
16 livestock but does not deliver the livestock transported  
17 thereunder to the destination as shown on the transportation  
18 permit and fails to have the livestock so transported  
19 inspected at the point of destination or does not file a  
20 loading tally with the carrier as provided in 81-4-607.21 (2) A person who sells livestock or offers livestock  
22 for sale at a livestock market without having the livestock  
23 inspected or removes livestock or causes livestock to be  
24 removed from a livestock market without obtaining a release  
25 is guilty of a misdemeanor and is punishable as provided in

1 subsection (6) of this section.

2 (3) A person who ships by railroad carrier and the  
 3 railroad carrier transporting livestock for which a loading  
 4 tally has been filed as provided by 81-4-607 and for which  
 5 shipment of livestock an inspection has not been made and  
 6 ~~which~~ after shipment, causes or permits the livestock to  
 7 leave the custody of the railroad carrier at a place other  
 8 than where this state regularly maintains a stock inspector  
 9 is guilty of a misdemeanor and ~~shall--be~~ is punishable as  
 10 provided in subsection (6) of this section.

11 (4) A person who has in his charge livestock being  
 12 removed from a county in the state for which an inspection  
 13 certificate, a market consignment permit, or a market  
 14 release certificate has been issued and fails to have in his  
 15 possession accompanying the livestock the inspection  
 16 certificate, market consignment permit, or a market release  
 17 certificate as issued for the livestock, or who, having the  
 18 certificate of inspection, market consignment permit, or  
 19 market release certificate, fails to exhibit it to a  
 20 sheriff, deputy sheriff, constable, highway patrolman, state  
 21 stock inspector, or deputy state stock inspector at his  
 22 request is guilty of a misdemeanor and is punishable as  
 23 provided in subsection (6) of this section.

24 (5) Except as specifically otherwise provided, a  
 25 person violating any of the provisions of this [part] is

1 guilty of a misdemeanor and is punishable as provided in  
 2 subsection (6) of this section.

3 (6) Upon conviction under this section, a person,  
 4 firm, association or corporation ~~under this section~~ shall  
 5 be fined not less than \$50 or more than \$500 or imprisoned  
 6 in the county jail for a period of not more than 6 months,  
 7 or both fined and imprisoned. Of all fines assessed and  
 8 collected under this section, 50% shall be paid into the  
 9 state treasury and credited to the earmarked revenue fund  
 10 for the use of the department, and 50% shall be paid into  
 11 the general fund of the county in which the conviction  
 12 occurred."

13 Section 3. Section 81-4-309, MCA, is amended to read:

14 "81-4-309. Unlawful introduction of livestock into  
 15 herd district a misdemeanor -- penalty. Any person not the  
 16 owner or person in charge of any livestock who ~~shall--drive~~  
 17 ~~put--place--or--introduce~~ causes any livestock into to enter  
 18 any herd district established under the provisions  
 19 81-4-301 through 81-4-309 or ~~who shall so place, move, or~~  
 20 ~~interfere with such livestock that they will trespass on~~  
 21 ~~such herd district shall be~~ is guilty of a misdemeanor and  
 22 upon conviction thereof be is subject to a fine of not less  
 23 than \$50 or ~~shall--be confined~~ confinement in the county  
 24 jail not less than 60 days or both such fine and  
 25 imprisonment and ~~shall--be~~ is liable for all damages and

1 costs occurring from such trespass. For the purposes of this  
 2 section, each separate animal so moved, ~~placed~~ or  
 3 interfered with, shall constitute constitutes a separate  
 4 offense."

5 Section 4. Section 81-5-102, MCA, is amended to read:

6 "81-5-102. Driving animals upon railroad track. ~~It~~  
 7 Every ~~if~~ a person who willfully drives any ~~an~~ animal upon  
 8 any a railroad track with intent to injure the corporation  
 9 or persons owning the railroad, and such animal is killed or  
 10 injured thereby, the person is punishable by imprisonment in  
 11 the state prison not exceeding 5 years, and is

12 ~~{2} if the owner or owners, or his or their duty~~  
 13 ~~authorized agent or agents, of any animal or animals~~  
 14 ~~mentioned in 69-14-707 shall drive the same upon the track~~  
 15 ~~of any such corporation, association, company, person, or~~  
 16 ~~persons with the intention to injure it or them, and such~~  
 17 ~~animal or animals shall be killed or injured, such owner or~~  
 18 ~~owners shall be liable for all injury or damage occasioned~~  
 19 ~~by reason of such act and shall be punished as provided in~~  
 20 ~~subsection (1)."~~

21 Section 5. Section 81-7-115, MCA, is amended to read:

22 "81-7-115. Duty of county clerk. (1) The county clerk  
 23 shall, on receipt of each certificate, file the certificate  
 24 in the order in which it is received and safely keep it  
 25 until the arrival of the skin or skins mentioned in the

1 certificate. On receipt of the skin or skins he shall call  
 2 to his assistance either the county treasurer or, in his  
 3 absence, the clerk of the district court who, with both  
 4 present in order to prevent fraud, shall examine each scalp  
 5 or mountain lion lower jaw skin. If the examination  
 6 discloses that the scalps or lower jaw skins agree with the  
 7 number and kind of scalps or lower jaw ~~of mountain lion~~  
 8 skins mentioned in the certificate, the county clerk shall,  
 9 in the presence of the treasurer or clerk of the district  
 10 court, destroy the scalps or lower jaw skins by fire.

11 (2) The county clerk shall then make out and deliver  
 12 to the person named in that certificate a second certificate  
 13 showing the statement of the facts contained in the  
 14 certificate to the sheriff, undersheriff, or deputy sheriff,  
 15 with the additional statement of the examination made by him  
 16 and that he found the scalps or lower jaw skins to agree  
 17 with the number and kind mentioned in the certificate of the  
 18 sheriff, undersheriff, or deputy sheriff. In no case may a  
 19 bounty certificate be issued by the county clerk for more  
 20 scalps or lower jaw skins than are actually received and  
 21 counted by him.

22 (3) The county clerk shall receive, for each scalp or  
 23 skin of a mountain lion lower jaw which he accounts for, the  
 24 sum of 5 cents to be paid quarterly by the state treasurer  
 25 out of the bounty fund.

1 (4) The county clerk shall keep a record of all  
 2 certificates received and issued, showing the date and  
 3 description of the number and kind of hides and the names of  
 4 the persons presenting the hides, and this record is an  
 5 official record. County clerks are required to send a report  
 6 and statement to the department on or before the 20th of  
 7 each month."

8 Section 6. Section 81-7-119, MCA, is amended to read:  
 9 "81-7-119. County license money to be used for ~~payment~~  
 10 ~~of bounty--claims predator control.~~ For the purpose of  
 11 ~~providing for the payment of bounty-claims predator control,~~  
 12 5% of all license money collected by the several county  
 13 treasurers of the state, ~~as provided in 7-21-2105, as~~  
 14 ~~amended~~ shall be paid over by said ~~the~~ county treasurers to  
 15 the state treasurer and shall be deposited by the latter in  
 16 the earmarked revenue fund."

17 Section 7. Section 81-7-121, MCA, is amended to read:  
 18 "81-7-121. Falsifying certificates or affidavits --  
 19 penalty. Any person who ~~shall~~ falsely ~~make~~ ~~makes~~, ~~alter~~  
 20 ~~alters~~, ~~forge~~ ~~forges~~, or ~~counterfeit~~ ~~counterfeits~~ any of  
 21 ~~said the~~ certificates or orders ~~shall-be--deemed--guilty--of~~  
 22 ~~forgery~~ and any person who ~~shall~~ falsely swear ~~swears~~ to  
 23 any affidavit provided for by 81-7-111 through 81-7-122, or  
 24 procure ~~procures~~ the same to be done by another, with the  
 25 intent of obtaining any one of said ~~the~~ certificates or

1 orders, ~~shall--be--deemed-guilty-of-perjury--and--any--person~~  
 2 ~~convicted-of-any-of-the-offenses-declared--in--this--section~~  
 3 ~~shall--be-punished-by-imprisonment-in-the-state-prison-for-a~~  
 4 ~~term-of-not-less-than-1--year--or--more--than--10--years~~ is  
 5 punishable as provided in Title 45."

6 Section 8. Section 81-7-402, MCA, is amended to read:

7 "81-7-402. Liability of owner of dog for damages to  
 8 livestock or poultry. (1) The owner of livestock or poultry  
 9 injured or killed by any dog may recover as liquidated  
 10 damages from the owner of the dog the actual value of the  
 11 animals killed or the value of the damages sustained by  
 12 reason of the injuries as the case may be. If two or more  
 13 dogs kept by two or more owners or keepers injure or kill  
 14 any livestock or poultry at the same time, the owners or  
 15 keepers of the dogs are jointly and severally liable for  
 16 such damages. It ~~shall-be~~ is no defense to said ~~the~~ action  
 17 that the owner or keeper of the dog had no knowledge of the  
 18 dog's whereabouts at or prior to the time when the dog  
 19 injured or killed livestock or poultry or that the owner or  
 20 keeper of the dog had no knowledge of the dog's disposition  
 21 or inclination to worry, kill, or injure livestock or  
 22 poultry.

23 (2) The word "owner" when used in this section in  
 24 relation to property interest in or possession of dogs ~~shall~~  
 25 ~~include~~ includes every person who owns, harbors, or keeps a

1 dog."

2 Section 9. Section 81-8-311, MCA, is amended to read:

3 "81-8-311. Range stock -- taking possession under  
 4 process. Whenever it is necessary for an officer or person  
 5 charged with the service of process out of any of the courts  
 6 of this state to take possession of any cattle or horses  
 7 running at large, and commonly known as range stock, between  
 8 November 1 and the next succeeding May 15, it is a  
 9 sufficient service of such process for the officer or person  
 10 ~~charged with the service of the same~~ within 15 days after  
 11 receiving the process for service to file a copy thereof  
 12 with the county clerk of the county wherein such property is  
 13 running at large, with a notice appended thereto containing  
 14 stating the number, as near as may be, and a description of  
 15 ~~said the~~ stock by marks and brands, and stating that such  
 16 property or a portion thereof, as the case may be, is  
 17 attached or levied upon in pursuance of such process, with  
 18 ~~the county clerk of the county wherein such property is~~  
 19 ~~running at large within 15 days after the receipt of such~~  
 20 ~~process for service~~, and such officer or person shall make  
 21 due return of ~~his said proceedings upon said the service of~~  
 22 process."

23 Section 10. Section 81-8-609, MCA, is amended to read:

24 "81-8-609. Receipt of gifts, grants, or donations for  
 25 research purposes. The department of livestock ~~is hereby~~

1 ~~authorized to~~ may receive any gifts, grants, or donations  
 2 for any research of or scientific inquiries conducted under  
 3 authority of this part and to use and expend the same in  
 4 compliance with the conditions, if any, of such grants,  
 5 gifts, and donations, ~~provided if~~ such conditions are valid  
 6 under the laws of ~~the state of~~ Montana and in aid of the  
 7 purposes of this part."

8 Section 11. Section 81-9-424, MCA, is amended to read:

9 "81-9-424. Sufficiency of pleading and proof in  
 10 criminal prosecution. In any prosecution for the violation  
 11 of the provisions of 81-9-423 it is not necessary for the  
 12 state to allege in the complaint or information the  
 13 ownership of the hide or of the animal from which the hide  
 14 was removed, but it is sufficient to allege in the complaint  
 15 or information that the owner of the hide or of the animal  
 16 from which the hide was removed is unknown and the hide or  
 17 animal is not the property of the defendant."

18 Section 12. Section 81-22-101, MCA, is amended to  
19 read:

20 "81-22-101. Definitions. For the purpose of this  
21 chapter, the following definitions are adopted:

22 (1) "Agent" means a person who is authorized by  
 23 another person to act for him in dealing with a third  
 24 person.

25 (2) "Butter" is the clean, nonrancid product made by

1 gathering the fat of fresh ripened milk or cream into a mass  
 2 which also contains a small portion of the other milk  
 3 constituents, with or without salt, and must contain not  
 4 less than 80% of milk fat. No tolerance for deficiency in  
 5 milk fat is permitted. Butter may also contain added  
 6 coloring matter.

7 (3) "Cheese" is the sound, solid, and ripened product  
 8 made from milk or cream by coagulating the casein with  
 9 rennet or lactic acid, with or without ripening ferments and  
 10 seasoning, and must contain in the water-free substance not  
 11 less than 50% of milk fat, and not more than 39% of  
 12 moisture. Cheese may also contain added coloring matter.

13 (4) ~~{a}~~"Cheese factory" means a place where cheese,  
 14 including cream cheese, cottage cheese, creamed cottage  
 15 cheese, cheese curd, cottage cheese dressing, and low-fat  
 16 counterparts of cheese, either cultured or directly  
 17 acidified, is made for commercial purposes.

18 ~~{b}~~--A--"cheese factory"--is--a--place--where--milk--furnished  
 19 by--three--or--more--persons--is--made--into--cheese--for--commercial  
 20 purposes.

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

1 (6) "Code of Federal Regulations" refers especially  
 2 but is not limited to Title 21 which contains the  
 3 definitions and standards of identity for products as  
 4 established by the food and drug administration, United  
 5 States department of health, education, and welfare.

6 (7) "Cream" means the milk fat which rises to the  
 7 surface when milk is allowed to stand or which is separated  
 8 from milk by centrifugal force when sold, used, or intended  
 9 for use in a manufactured product.

10 ~~{a}~~--A--"creamery"--is--a--place--where--milk--or--cream  
 11 furnished--by--three--or--more--persons--is--used--for--manufacture  
 12 into--butter--for--commercial--purposes.

13 ~~{b}~~--"Creamery" means a place where butter is made for  
 14 commercial purposes.

15 (9) "Culture" means the harmless lactic acid  
 16 fermenting bacteria which are added to milk or cream to make  
 17 manufactured dairy products like cultured buttermilk,  
 18 cheese, cottage cheese, yogurt, sour cream, cream cheese,  
 19 butter, and other similar products.

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

23 (11) The term "department", unless otherwise indicated,  
 24 means the department of livestock provided for in Title 2,  
 25 chapter 15, part 31.

1 (12) "Direct acidification", "directly acidified", and  
 2 similar terms mean the process of adding a food grade acid  
 3 to milk or cream instead of or in addition to the adding of  
 4 culture.

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

18 (14) "French ice cream", "French custard ice cream",  
 19 "cooked ice cream", "ice custard", "parfaits", and similar  
 20 frozen products, except sherbets and water ices, are  
 21 varieties of ice cream.

22 (15) "Frozen dessert plant" means a place where  
 23 products named in subsections (27)(a)(iii) through  
 24 (27)(a)(ix) of this section are made for commercial  
 25 purposes.

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

5 (17) "Grading" means the examination of milk, cream, or  
 6 products by sight, odor, taste, or laboratory analysis, the  
 7 results of which determine a grade designating their  
 8 quality.

9 (18) "Ice" or "ice sherbet" is the pure, clean, frozen  
 10 product made from water and sugar with harmless fruit or  
 11 fruit juice flavoring, with or without harmless coloring or  
 12 added stabilizer composed of wholesome edible material, and  
 13 must contain not less than 35/100 of 1% of acid, as  
 14 determined by titrating with standard alkali and expressed  
 15 as lactic acid. It may contain no milk solids.

16 (19) "Ice cream" is a frozen product made with pure,  
 17 sweet milk, cream, skim milk, evaporated or condensed milk,  
 18 evaporated or condensed skim milk, dry milk, dry skim milk,  
 19 pure milk fat, wholesome sweet butter, or any combination of  
 20 these products, with or without sweetening, or clean  
 21 wholesome eggs or egg products, with or without the use of  
 22 harmless flavoring and coloring. Ice cream must contain not  
 23 less than 10% of milk fat, not less than 33% total solids,  
 24 and may or may not contain pure and harmless edible  
 25 stabilizer. Ice cream may contain not to exceed 1% gelatin.



1 No frozen milk or milk product may be manufactured or sold  
 2 unless it contains at least 10% butterfat, excepting  
 3 sherbets, ices, and other exceptions under this section. All  
 4 ice cream must be manufactured from pasteurized ice cream  
 5 mix.

6 (20) An "ice cream factory" is a place where ice cream  
 7 mix is frozen into ice cream for commercial purposes.

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

11 (b) "Mix" includes the liquid, unfrozen product from  
 12 which those frozen products listed under subsection  
 13 (27)(a)(iii) through (27)(a)(v) and (27)(a)(vii) through  
 14 (27)(a)(xii) are made.

15 (22) An "ice cream mix factory" is a place where ice  
 16 cream mix is made.

17 (23) "Intrastate commerce" means commerce within this  
 18 state under the jurisdiction of the state and includes the  
 19 operation of a business or service establishment.

20 (24) "Manufactured dairy product" means an item  
 21 enumerated in subsection (27) or any other dairy product  
 22 made by incorporating milk or cream or converting milk or  
 23 cream into a different state of appearance or quality. For  
 24 purposes of reporting production and licensing,  
 25 "manufactured dairy product" includes but is not limited to:

- 1 (a) ice cream or its mix;
- 2 (b) French ice cream, custard ice cream, French  
 3 custard ice cream, their low-fat counterparts, or their  
 4 mixes;
- 5 (c) sherbets of all kinds or their mixes;
- 6 (d) animal or vegetable fat frozen desserts or their  
 7 mixes;
- 8 (e) frozen confections or their mixes when made in a  
 9 manufactured dairy products plant;
- 10 (f) water ices or their mixes;
- 11 (g) frozen dessert sandwiches, bars, cones, and  
 12 similar novelties;
- 13 (h) frozen dessert made of nondairy origins and other  
 14 products made in the semblance or imitation of dairy  
 15 products or their mixes when made in a manufactured dairy  
 16 products plant;
- 17 (i) ice milk or its mix;
- 18 (j) cheese of all kinds, including cottage cheese  
 19 cheese curd, cheese dressing, and cream cheese, either  
 20 cultured or directly acidified;
- 21 (k) sour cream when cultured or directly acidified;
- 22 (l) eggnog, low-fat eggnog, eggnog-flavored milk, and  
 23 similar flavored products;
- 24 (m) buttermilk, cultured or from churned butter or  
 25 directly acidified;

1 (n) butter;

2 (o) yogurt--1 low-fat yogurt, or flavored yogurt,

3 either cultured or directly acidified or frozen.

4 (25) "Manufactured dairy products plant" or "factory"

5 means a place where milk or cream is collected and converted

6 into a product or into a different state of appearance or

7 quality or which manufactures those products listed in

8 subsection (27). If only products of semblance or imitation

9 of dairy products are made, the plant is not considered as a

10 manufactured dairy products plant.

11 (26) "Milk" means the lacteal secretion, practically

12 free from colostrum, obtained by the milking of one or more

13 healthy cows located in modified accredited areas and

14 modified certified areas or from cows in herds fully

15 accredited as tuberculosis free by the United States

16 department of agriculture or in the process of being

17 accredited when the milk or cream is sold for use in,

18 intended for use in, or used in a manufactured dairy

19 product.

20 (27) (a) "Milk" and "cream" mean milk and cream sold,

21 used, or intended for manufacturing purposes or for

22 conversion into products of a form other than the form in

23 which originally produced or products commonly known as but

24 not limited to:

25 (i) butter;

1 (ii) cheese, including cottage cheese, low-fat cottage

2 cheese, cheese curd, and cream cheese which are either

3 cultured or directly acidified, and cheese dressings;

4 (iii) ice cream or its mix;

5 (iv) frozen dessert or its mix;

6 (v) sherbets of all kinds or their mixes;

7 (vi) frozen ice cream bars, sandwiches, cones, and

8 similar novelties;

9 (vii) frozen desserts or products made in the semblance

10 or imitation of frozen dessert;

11 (viii) frozen confections or their mixes;

12 (ix) water ices or their mixes;

13 (x) ice milk or its mix;

14 (xi) French ice cream, French custard, or their mixes;

15 (xii) frozen custard or its mix and frozen yogurt;

16 (xiii) yogurt, flavored yogurt, and low-fat yogurt;

17 (xiv) sour cream--1 either cultured or directly

18 acidified;

19 (xv) cream cheese--1 either cultured or directly

20 acidified;

21 (xvi) buttermilk--1 either cultured, from churned

22 butter, or directly acidified;

23 (xvii) eggnog, low-fat eggnog, eggnog-flavored milk,

24 whipped cream, flavored toppings, and similar flavored

25 products;

1 (xviii) dry or powdered milk; and

2 (xix) condensed milk products.

3 (b) The items specified in subsection (27)(a) of this  
4 section shall conform to the standards of identity set forth  
5 in the Code of Federal Regulations. If standards of identity  
6 are not set forth in the code, then the standards adopted by  
7 the department prevail. The labeling of manufactured dairy  
8 products shall be in accordance with the Montana Food, Drug,  
9 and Cosmetic Act.

10 (28) ~~(a) "Milk or cream buying or collecting station"~~  
11 ~~is a place where milk or cream is bought or collected for~~  
12 ~~shipment or delivery to a creamery or to a person intending~~  
13 ~~to make use of it for commercial purposes.~~

14 (b) ~~"Milk or cream cream station"~~ means a place other  
15 than a creamery where deliveries of milk or cream are  
16 weighed, graded, sampled, tested, or collected for purchase.

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

25 (30) "Misbranded", "unwholesome", "food additives",

1 "optional ingredients", "impure", "misbranded",  
2 "contaminated", "adulterated", "perishable", "hazardous",  
3 "unfit", "spoiled", "damaged", and similar terms, when  
4 applied to a manufactured dairy product or product made in  
5 semblance or in imitation of a manufactured dairy product,  
6 are as defined in Title 50, chapter 31.

7 (31) "Official test" means test procedures outlined in  
8 the sources referred to under 81-22-301 concerning samples,  
9 methods, and rules of evidence.

10 (32) "Pasteurization", "pasteurizing", and similar  
11 terms mean the process of heating every particle of milk or  
12 milk product to at least 145 degrees F and holding it  
13 continuously at or above this temperature for at least 30  
14 minutes, or to at least 161 degrees F and holding it  
15 continuously at or above this temperature for at least 15  
16 seconds in equipment which is properly operated and approved  
17 by the department. Milk products that have a higher fat  
18 content than milk or contain added sweeteners shall  
19 be heated to at least 155 degrees F and held continuously at or  
20 above this temperature for at least 30 minutes, or to at  
21 least 175 degrees F and held continuously at or above this  
22 temperature for at least 25 seconds. This definition does  
23 not bar any other pasteurization process which has been  
24 recognized by the United States public health service to be  
25 equally effective and which is approved by the department.

1       ~~(33) (a) "Person" includes persons, whether natural or~~  
2 ~~artificial, including firms, partnerships, corporations, and~~  
3 ~~marketing associations of every description.~~

4       ~~(b) "Person" means an individual, firm, partnership,~~  
5 ~~corporation, cooperative, or other business unit or trade~~  
6 ~~device.~~

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

12       (35) "Raw milk" or "raw milk products" means milk or  
13 milk products which have not been treated by a process of  
14 pasteurization.

15       (36) "Renovated butter" or "processed butter" is the  
16 product made by melting and reworking, without the addition  
17 or use of chemicals or substances except whole milk, cream,  
18 or salt, and must contain not less than 80% of milk fat.

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

22       (38) "Skimmed milk cheese" is the sound, solid, and  
23 ripened product made from skim milk by coagulating the  
24 casein with rennet or lactic acid, with or without ripening  
25 ferments and seasoning.

1       (39) "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       (40) "Water ice" means a frozen product containing but  
7 not limited to the following ingredients: water, sugar,  
8 flavoring, coloring, stabilizers, and other ingredients  
9 allowed by the Code of Federal Regulations as optional  
10 ingredients."

11       Section 13. Section 81-22-204, MCA, is amended to  
12 read:

13       "81-22-204. License required for milk or cream route.  
14 It is unlawful for a person to engage in hauling milk or  
15 cream on an established milk or cream route for a  
16 ~~manufactured~~ dairy products manufacturing plant, milk plant,  
17 or milk or cream buying-or-receiving station without first  
18 procuring a license from the department. The fee for the  
19 license is \$5 annually."

20       Section 14. Section 81-22-408, MCA, is amended to  
21 read:

22       "81-22-408. Manufacturer's and wholesaler's or  
23 retailer's names to appear on package -- use of codes and  
24 numbers permitted. ~~(1)~~ All manufactured dairy products sold,  
25 offered, displayed, or exposed for sale at wholesale or

1 retail in this state, wherever manufactured, must be  
 2 packaged in a protective wrapper or package and must have  
 3 the manufacturer's and wholesaler's or retailer's names  
 4 clearly printed in a conspicuous place on the package or  
 5 wrapper in which it is sold.

6 (2) If a manufactured dairy product is packaged in a  
 7 plant other than that of the plant whose name appears on the  
 8 package or wrapper, the package or wrapper shall also show  
 9 the name of the plant at which the product was packaged or  
 10 wrapped. However,

11 (3) ~~this~~ this section does not prevent the use of  
 12 codes or numbers which designate the packaged ~~packaging~~ or  
 13 wrapping plant when if these codes or numbers are registered  
 14 with the department."

15 Section 15. Section 81-22-413, MCA, is amended to  
 16 read:

17 "81-22-413. Pasteurization required. All milk and  
 18 cream used in the manufacture of any dairy product or  
 19 products made in semblance of ~~imitations~~ or imitation of  
 20 dairy products sold, offered for sale, purveyed, stored,  
 21 displayed, or transported in Montana shall ~~is~~ must be  
 22 pasteurized. However, cheese held, stored, or aged for at  
 23 least 60 days at not less than 35 degrees F shall ~~is~~ is not be  
 24 required to be made from pasteurized milk or cream but shall  
 25 ~~be required to~~ must be labeled "made from raw" or

1 "unpasteurized milk" or "unpasteurized cream", as the case  
 2 may be. Other cultured raw or unpasteurized dairy products  
 3 which ~~that~~ can be made safe by aging shall ~~also be~~ required  
 4 to ~~must~~ be similarly aged and labeled as required above."

5 Section 16. Repealer. Sections 3-2491, 46-1701, and  
 6 46-1703, R.C.M. 1947, are repealed.

-End-