## CHAPTER NO. 95

## HOUSE BILL NO. 279

## INTRODUCED BY ELLERD, CONROY

## IN THE HOUSE

	IN THE HOUSE	
January 19, 1979	C	ntroduced and referred to ommittee on Agriculture, ivestock, and Irrigation.
February 9, 1979		ommittee recommend bill o pass. Report adopted.
February 10, 1979		rinted and placed on embers' desks.
February 12, 1979		econd reading, do pass s amended.
February 13, 1979	Co	orrectly engrossed.
February 14, 1979		hird reading, passed. ransmitted to second house.
	IN THE SENATE	i
February 15, 1979	C	ntroduced and referred to ommittee on Agriculture, ivestock, and Irrigation.
March 1, 1979	b	committee recommend bill e concurred in. eport adopted.
March 3, 1979	S	econd reading, concurred in.
March 6, 1979	T	hird reading, concurred in.
	IN THE HOUSE	
March 7, 1979		eturned from second house. concurred in. Sent to enrolling

Reported correctly enrolled.

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A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LIVESTOCK FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE; AND AMENDING SECTION 30-2-316. MCA.\*

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

Section 1. Section 30-2-316. MCA, is amended to read: #30-2-316. Exclusion or modification of warranties. (1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this chapter on parol or extrinsic evidence (30-2-202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof.\*

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- (3) Notwithstanding subsection (2):
- (a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is". "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty: and
  - (b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and
- (c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of tradew: and
- 17 (d) in sales of cattle, hous, sheep and horses, there is no implied warranties, as defined in this chapter, that the cattle, hous, sheep, or horses are free from sickness or disease.
- (4) Remedies for breach of warranty can be limited in accordance with the provisions of this chapter on 23 liquidation or limitation of damages and on contractual modification of remedy (30-2-718 and 30-2-719).\*\*

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Approved by Committee on Agriculture Livestock & Irrigation

LADUSE BILL NO. 279

INTRODUCED BY College Course

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(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

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- {3} Notwithstanding subsection (2):
- (a) unless the circumstances indicate otherwise, all 3 implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and
  - (b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him: and
  - (c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of tradewi and
- 17 (d) in sales of cattle, hous, sheep and horses, there 18 is no implied warranties, as defined in this chapter, that 19 the cattles hoos, sheep, or horses are free from sickness or 20 discase.
  - (4) Remedies for breach of warranty can be limited in accordance with the provisions of this chapter liquidation or limitation of damages and on contractual modification of remedy (30-2-718 and 30-2-719).\*\*

-End-

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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LIVESTOCK
5	FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE;
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#30-2-316. Exclusion or modification of warranties.

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this chapter on parol or extrinsic evidence (30-2-202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond

the description on the face hereof."

- (3) Notwithstanding subsection (2):
- (a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and
  - (b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and
  - (c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of tradew: and
- 17 <u>(d) in sales of cattles hogs: sheep and horses: there</u>
  18 <u>is AdE no implied warranties, as defined in this chapter:</u>
  19 <u>that the cattles hogs: sheep; or horses are free from</u>
  20 <u>sickness or disease</u>.
  - (4) Remedies for breach of warranty can be limited in accordance with the provisions of this chapter on liquidation or limitation of damages and on contractual modification of remedy (30-2-718 and 30-2-719).\*

-End-

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8	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9	Section 1. Section 30-2-316, MCA, is amended to read:
10	#30-2-316. Exclusion or modification of warranties.
11	(1) Words or conduct relevant to the creation of an express
12	warranty and words or conduct tending to negate or limit
13	warranty shall be construed wherever reasonable as
14	consistent with each other; but subject to the provisions of
15	this chapter on parol or extrinsic evidence (30-2-202)
16	negation or limitation is inoperative to the extent that
17	such construction is unreasonable.
18	(2) Subject to subsection (3), to exclude or modify
19	the implied warranty of merchantability or any part of it
20	the language must mention merchantability and in case of a
21	writing must be conspicuous, and to exclude or modify any
22	implied warranty of fitness the exclusion must be by a
23	writing and conspicuous. Language to exclude all implied
24	warranties of fitness is sufficient if it states, for
26	example, that #There are no warranties which extend howard

2 (3) Notwithstanding subsection (2): 3 (a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and 9 (b) when the buyer before entering into the contract 10 has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no 11 implied warranty with regard to defects which an examination 12 13 ought in the circumstances to have revealed to him; and 14 (c) an implied warranty can also be excluded or modified by course of dealing or course of performance or 15 16 usage of tradevi and 17 Idl in sales of cattle: hogs: sheen and horses: there

the description on the face hereof."

(4) Remedies for breach of warranty can be limited in accordance with the provisions of this chapter on 22 liquidation or limitation of damages and on contractual 23 modification of remedy (30-2-718 and 30-2-719).\*\* 24

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