

CHAPTER NO. 95

HOUSE BILL NO. 279

INTRODUCED BY ELLERD, CONROY

IN THE HOUSE

January 19, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
February 9, 1979	Committee recommend bill do pass. Report adopted.
February 10, 1979	Printed and placed on members' desks.
February 12, 1979	Second reading, do pass as amended.
February 13, 1979	Correctly engrossed.
February 14, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 15, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
March 1, 1979	Committee recommend bill be concurred in. Report adopted.
March 3, 1979	Second reading, concurred in.
March 6, 1979	Third reading, concurred in.

IN THE HOUSE

March 7, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
---------------	---

1 HOUSE BILL NO. 279  
2 INTRODUCED BY Cliff Conroy

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LIVESTOCK  
5 FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE;  
6 AND AMENDING SECTION 30-2-316, MCA."

7  
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  
25 example, that "There are no warranties which extend beyond

1 the description on the face hereof."

2 (3) Notwithstanding subsection (2):

3 (a) unless the circumstances indicate otherwise, all  
4 implied warranties are excluded by expressions like "as is",  
5 "with all faults" or other language which in common  
6 understanding calls the buyer's attention to the exclusion  
7 of warranties and makes plain that there is no implied  
8 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  
11 desired or has refused to examine the goods there is no  
12 implied warranty with regard to defects which an examination  
13 ought in the circumstances to have revealed to him; and

14 (c) an implied warranty can also be excluded or  
15 modified by course of dealing or course of performance or  
16 usage of trade; and

17 ~~(d) in sales of cattle, hogs, sheep and horses, there~~  
18 ~~is no implied warranties, as defined in this chapter, that~~  
19 ~~the cattle, hogs, sheep, or horses are free from sickness or~~  
20 ~~disease.~~

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

-End-

-2-

HB 279  
INTRODUCED BILL

Approved by Committee  
on Agriculture Livestock  
& Irrigation

1 HOUSE BILL NO. 279  
2 INTRODUCED BY Clifford Conroy

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LIVESTOCK  
5 FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE;  
6 AND AMENDING SECTION 30-2-316, MCA."

7  
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  
25 example, that "There are no warranties which extend beyond

1 the description on the face hereof."

2 (3) Notwithstanding subsection (2):

3 (a) unless the circumstances indicate otherwise, all  
4 implied warranties are excluded by expressions like "as is",  
5 "with all faults" or other language which in common  
6 understanding calls the buyer's attention to the exclusion  
7 of warranties and makes plain that there is no implied  
8 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  
11 desired or has refused to examine the goods there is no  
12 implied warranty with regard to defects which an examination  
13 ought in the circumstances to have revealed to him; and

14 (c) an implied warranty can also be excluded or  
15 modified by course of dealing or course of performance or  
16 usage of trade; and

17 ~~(d) in sales of cattle, hogs, sheep and horses, there~~  
18 ~~is no implied warranties, as defined in this chapter, that~~  
19 ~~the cattle, hogs, sheep, or horses are free from sickness or~~  
20 ~~diseases.~~

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

-End-

FEB 27 1998

## 1 HOUSE BILL NO. 279

2 INTRODUCED BY ELLERO, CONROY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LIVESTOCK  
5 FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE;  
6 AND AMENDING SECTION 30-2-316, MCA."

7  
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  
25 example, that "There are no warranties which extend beyond

1 the description on the face hereof."

2 (3) Notwithstanding subsection (2):

3 (a) unless the circumstances indicate otherwise, all  
4 implied warranties are excluded by expressions like "as is",  
5 "with all faults" or other language which in common  
6 understanding calls the buyer's attention to the exclusion  
7 of warranties and makes plain that there is no implied  
8 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  
11 desired or has refused to examine the goods there is no  
12 implied warranty with regard to defects which an examination  
13 ought in the circumstances to have revealed to him; and

14 (c) an implied warranty can also be excluded or  
15 modified by course of dealing or course of performance or  
16 usage of trade; and

17 ~~(d) in sales of cattle, hogs, sheep and horses, there~~  
18 ~~is A&E no implied warranties, as defined in this chapter,~~  
19 ~~that the cattle, hogs, sheep, or horses are free from~~  
20 ~~sickness or disease.~~

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

-End-

1                   HOUSE BILL NO. 279  
 2                   INTRODUCED BY ELLERD, CONROY  
 3  
 4   A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LIVESTOCK  
 5   FROM THE IMPLIED WARRANTIES OF THE UNIFORM COMMERCIAL CODE;  
 6   AND AMENDING SECTION 30-2-316, MCA."  
 7  
 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  
 25       example, that "There are no warranties which extend beyond

1   the description on the face hereof."  
 2       (3) Notwithstanding subsection (2):  
 3       (a) unless the circumstances indicate otherwise, all  
 4       implied warranties are excluded by expressions like "as is",  
 5       "with all faults" or other language which in common  
 6       understanding calls the buyer's attention to the exclusion  
 7       of warranties and makes plain that there is no implied  
 8       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  
 11       desired or has refused to examine the goods there is no  
 12       implied warranty with regard to defects which an examination  
 13       ought in the circumstances to have revealed to him; and  
 14       (c) an implied warranty can also be excluded or  
 15       modified by course of dealing or course of performance or  
 16       usage of trade; and  
 17       (d) in sales of cattle, hogs, sheep and horses, there  
 18       is ARE no implied warranties, as defined in this chapter,  
 19       that the cattle, hogs, sheep, or horses are free from  
 20       sickness or disease.  
 21       (4) Remedies for breach of warranty can be limited in  
 22       accordance with the provisions of this chapter on  
 23       liquidation or limitation of damages and on contractual  
 24       modification of remedy (30-2-718 and 30-2-719)."

-End-