## HOUSE BILL NO. 172

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### INTRODUCED BY DONALDSON

## BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

January 12, 1981	Introduced and referred to Committee on Business and Industry.
January 14, 1981	Rereferred to Committee on Public Realth.
January 29, 1961	Committee recommend bill do pass. Report adopted.
January 30, 1981	Bill printed and placed on members' desks.
January 31, 1981	Second reading, do pass.
February 2, 1981	Considered correctly engrossed.
Pebruary 3, 1981	Third reading, passed. Transmitted to Senate.
IN THE SENATO	
February 4, 1981	Introduced and referred to Committee on Public Sealth, Welfare and Safety.
March 14, 1981	Committee recommend bill be concurred in. Report adopted.
March 17, 1981	Second reading, concurred in.
March 19, 1981	Third reading, concurred in. Ayes, 48; Noes, 0.

# IN THE HOUSE

March 20, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

1 BILL NO. 172 Monald: INTRODUCED BY \_\_ 2 BY REQUEST OF THE DEPARTMENT 3 OF HEALTH AND ENVIRONMENTAL SCIENCES 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE LAW 6 RELATING TO THE DETAINER OF ADULTERATED OR MISBRANDED 7 ARTICLES: AMENDING SECTION 50-31-509, MCA." Э q 36 IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 50-31-509, MCA, is amended to read: 11 #50-31-509. Detainer of adulterated or misbranded 12 13 articles. (1) If an agent of the department finds or has probable cause to believe that any food, drug, device, or 14 15 cosmetic is adulterated or so misbranded as to be dangerous 16 or fraudulent within the meaning of this chapter, he shall affix to the article a tag or other appropriate marking 17 18 giving notice that the article is or is suspected of being 19 adulterated or misbranded and has been detained or embargoed 20 and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or 21 22 disposal is given by the agent or the court. It is unlawful 23 for a person to remove or dispose of a detained or embargoed article by sale or otherwise without permission. Inc. owner 24 25 of an embargoed article or another authorized person and the

1 department\_may\_enter\_into\_a\_disposal\_agreement\_providing\_for 2 the disposal, reconditioning, or other disposition of the embargoed article. If such an agreement is executed or if 3 the embargo is otherwise removed by the department or the 4 courty neither the department nor the state may be held 5 liable for damages caused by such embargo provided that 6 7 probable cause existed for its imposition. 8 (2) If an article detained or embargoed under 9 subsection (1) is found by the agent to be adulterated or 10 misbrandedy-he and a disposal agreement is not executed as provided in subsection (1). the agent shall petition the 11 justice of peace, city judge, or district court in whose 12 13 jurisdiction the article is detained or embargoed for an order for condemnation of the article. If the agent finds 14 15 that an article so detained or embaryoed is not adulterated or misbranded, he shall remove the tag or other marking. 16 17 (3) If the court finds that a detained or embargoed 18 article is adulterated or misbranded, the article shall, 19 after entry of the decree, be destroyed at the expense of 20 the claimant thereof under the supervision of the agent and 21 all court costs and fees and storage and other proper 22 expenses shall be taxed against the claimant of the article 23 or his agent. 24 (4) If the adulteration or misbranding can be corrected by proper labeling or processing of the article, 25

> -2- INTRODUCED BILL HB 172

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1 the court, after entry of the decree and after the costs, 2 fees, and expenses have been paid and a good and sufficient 3 bond, conditioned that the article will be so labeled or processed, has been executed, may by order direct that the 4 article be delivered to the claimant thereof for the 5 labeling or processing under the supervision of an agent of 6 7 the department. The expense of the supervision shall be paid 8 by claimant. The article shall be returned to the claimant 9 on . the representation to the court by the department that 10 the article is no longer in violation of this chapter and 11 that the expenses of the supervision have been paid."

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Approved by Comm. on

#### Public Health, Safety and Welfare

HOUSE BILL NO. 172 1 Umald's 2 INTRODUCED BY ... 3 BY REQUEST OF THE DEPARTMENT 4 OF HEALTH AND ENVIRONMENTAL SCIENCES 5 A BILL FOR AN ACT ENTITLED: MAN ACT TO AMEND THE LAW 6 RELATING TO THE DETAINER OF ADULTERATED OR MISBRANDED 7 ARTICLES: AMENDING SECTION 50-31-509. MCA.\* 3 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 50-31-509, NCA, is amended to read: #50-31-509. Detainer of adulterated or misbranded 12 13 articles. (1) If an agent of the department finds or has probable cause to believe that any food, drug, device, or 14 cosmetic is adulterated or so misbranded as to be dangerous 15 16 or fraudulent within the meaning of this chapter, he shall affix to the article a tag or other appropriate marking 17 19 giving notice that the article is or is suspected of being 19 adulterated or misbranded and has been detained or embargoed 20 and warning all persons not to remove or dispose of the 21 article by sale or otherwise until permission for removal or 22 disposal is given by the agent or the court. It is unlawful 23 for a person to remove or dispose of a detained or embargoed 24 article by sale or otherwise without permission. <u>The owner</u> 25 of an embargoed article or another authorized person and the

1 department\_may\_enter\_into\_a\_disposal\_agreement\_providing\_for 2 the disposal, reconditioning, or other disposition of the embargoed article. If such an agreement is executed or \_\_if 3 4 the embargo is otherwise removed by the department or the court. neither the department nor the state may be held 5 liable for damages caused by such embargo provided that ٨ 7 probable\_cause\_existed\_for\_its\_imposition. 8 (2) If an article detained or embargoed under subsection (1) is found by the agent to be adulterated or 9 10 misbrandedy-he and a disposal agreement is not executed as 11 provided\_in\_subsection\_(1). the agent shall petition the 12 justice of peace, city judge, or district court in whose 13 jurisdiction the article is detained or embargoed for an 14 order for condemnation of the article. If the agent finds 15 that an article so detained or embargoed is not adulterated 16 or misbranded, he shall remove the tag or other marking. 17 (3) If the court finds that a detained or embargoed 18 article is adulterated or misbranded, the article shall, 19 after entry of the decree, be destroyed at the expense of 20 the claimant thereof under the supervision of the agent and 21 all court costs and fees and storage and other proper

22 expenses shall be taxed against the claimant of the article 23 or his agent.

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-2- SECOND READING -2- HB 172

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-End-

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1 department may enter into a disposal agreement providing for 2 the disposals reconditionings or other disposition of the 3 embargoed\_article. If such an agreement is \_executed\_or\_if 4 the embargo is otherwise removed by the department or the 5 courts neither the department nor the state may be held 6 liable for damages caused by such embarge provided that 7 probable\_cause\_existed\_for\_its\_imposition. 8 (2) If an article detained or embargoed under

9 subsection (1) is found by the agent to be adulterated or 10 misbrandedy-he and a disposal agreement is not executed as 11 provided in subsection (1). the agent shall petition the 12 justice of peace, city judge, or district court in whose 13 iurisdiction the article is detained or embargoed for an order for condemnation of the article. If the agent finds 14 15 that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking. 16

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-2- THIRD READING HB 172

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#### 47th Legislature

HB 0172/02

1 HOUSE BILL NO. 172 2 INTRODUCED BY DONALDSON 3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE LAW ъ 7 RELATING TO THE DETAINER OF ADULTERATED OR MISBRANDED 8 ARTICLES: AMENDING SECTION 50-31-509+ HCA.\* 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 50-31-509, NCA, is amended to read: 11 12 \*50-31-509. Detainer of adulterated or misbranded 13 articles. (1) If an agent of the department finds or has 14 probable cause to believe that any food, drug, device, or 15 cosmetic is adulterated or so misbranded as to be dangerous or fraudulent within the meaning of this chapter. he shall 16 17 affix to the article a tag or other appropriate marking 18 giving notice that the article is or is suspected of being 19 adulterated or misbranded and has been detained or embargoed 20 and warning all persons not to remove or dispose of the 21 article by sale or otherwise until permission for removal or 22 disposal is given by the agent or the court. It is unlawful 23 for a person to remove or dispose of a detained or embargoed 24 article by sale or otherwise without permission. The owner 25 of an embargoed article or another authorized person and the HB 0172/02

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REFERENCE BILL

HB 0172/02

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