

House Bill 612

In The House

February 2, 1981	Introduced and referred to Committee on Business and Industry.
February 23, 1981	Committee recommend bill do pass as amended.
February 24, 1981	Bill printed and placed on members' desks.  Second reading do pass.
February 25, 1981	On motion rules suspended and bill placed on third reading this day.  Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Judiciary.
March 23, 1981	Committee recommend bill not concurred.

In The House

March 24, 1981	Returned from Senate not concurred.
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1 HOUSE BILL NO. 612  
2 INTRODUCED BY Barbara

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE TRANSACTIONS  
5 BETWEEN CROP PRODUCERS, CROP SELLERS, AND CROP BUYERS WITHIN  
6 THE DEFINITION OF "BETWEEN MERCHANTS" IN THE UNIFORM  
7 COMMERCIAL CODE; AMENDING SECTIONS 30-2-104 AND 30-2-201,  
8 MCA."  
9

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

11 Section 1. Section 30-2-104, MCA, is amended to read:

12 "30-2-104. Definitions -- "merchant" -- "between  
13 merchants" -- "financing agency". (1) "Merchant" means a  
14 person who deals in goods of the kind or otherwise by his  
15 occupation holds himself out as having knowledge or skill  
16 peculiar to the practices or goods involved in the  
17 transaction or to whom such knowledge or skill may be  
18 attributed by his employment of an agent or broker or other  
19 intermediary who by his occupation holds himself out as  
20 having such knowledge or skill.

21 (2) "Financing agency" means a bank, finance company  
22 or other person who in the ordinary course of business makes  
23 advances against goods or documents of title or who by  
24 arrangement with either the seller or the buyer intervenes  
25 in ordinary course to make or collect payment due or claimed

1 under the contract for sale, as by purchasing or paying the  
2 seller's draft or making advances against it or by merely  
3 taking it for collection whether or not documents of title  
4 accompany the draft. "Financing agency" includes also a  
5 bank or other person who similarly intervenes between  
6 persons who are in the position of seller and buyer in  
7 respect to the goods (30-2-707).

8 (3) "Between merchants" means in any transaction with  
9 respect to which both parties are chargeable with the  
10 knowledge or skill of merchants. The term includes  
11 transactions between crop producers, crop sellers, and crop  
12 buyers."

13 Section 2. Section 30-2-201, MCA, is amended to read:

14 "30-2-201. Formal requirements -- statute of frauds.

15 (1) Except as otherwise provided in this section a contract  
16 for the sale of goods for the price of \$500 or more is not  
17 enforceable by way of action or defense unless there is some  
18 writing sufficient to indicate that a contract for sale has  
19 been made between the parties and signed by the party  
20 against whom enforcement is sought or by his authorized  
21 agent or broker. A writing is not insufficient because it  
22 omits or incorrectly states a term agreed upon but the  
23 contract is not enforceable under this paragraph beyond the  
24 quantity of goods shown in such writing.

25 (2) Between merchants if within a reasonable time a

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HB 612

1 writing in confirmation of the contract and sufficient  
 2 against the sender is received and the party receiving it  
 3 has reason to know its contents, it satisfies the  
 4 requirements of subsection (1) against such party unless  
 5 written notice of objection to its contents is given within  
 6 10 days after it is received. For purposes of this section,  
 7 a party is considered a merchant if the goods being sold by  
 8 him are crops, whether they are growing or already harvested  
 9 when the contract for sale is made.

10 (3) A contract which does not satisfy the requirements  
 11 of subsection (1) but which is valid in other respects is  
 12 enforceable:

13 (a) if the goods are to be specially manufactured for  
 14 the buyer and are not suitable for sale to others in the  
 15 ordinary course of the seller's business and the seller,  
 16 before notice of repudiation is received and under  
 17 circumstances which reasonably indicate that the goods are  
 18 for the buyer, has made either a substantial beginning of  
 19 their manufacture or commitments for their procurement; or

20 (b) if the party against whom enforcement is sought  
 21 admits in his pleading, testimony or otherwise in court that  
 22 a contract for sale was made, but the contract is not  
 23 enforceable under this provision beyond the quantity of  
 24 goods admitted; or

25 (c) with respect to goods for which payment has been

1 made and accepted or which have been received and accepted  
 2 (30-2-606) or  
 3 (d) with respect to all goods subject to the contract  
 4 for sale for which a payment or payments have been made and  
 5 accepted for some of the goods, and there exists either an  
 6 instrument by which any such payment was made or a document  
 7 accompanying the payment either of which identifies the  
 8 particular contract to which the payment applies to an  
 9 extent sufficient to constitute notice to the seller of the  
 10 goods that the buyer believes they have a contract for  
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-End-

Approved by Committee  
on Business and Industry

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2 INTRODUCED BY BARDANOUVE

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25 (2) Between merchants if within a reasonable time a

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 3 has reason to know its contents, it satisfies the  
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 5 written notice of objection to its contents is given within  
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