

SENATE BILL NO. 370

INTRODUCED BY M. ANDERSON, S. BROWN

IN THE SENATE

February 5, 1981	Introduced and referred to Committee on Business and Industry.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 21, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass as amended.
February 25, 1981	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading, passed. Ayes, 44; Noes, 5. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Business and Industry.
March 12, 1981	Committee recommend bill be concurred in. Report adopted.
March 21, 1981	Second reading, pass consideration.
March 23, 1981	Second reading, pass consideration to the 67th legislative day.
March 26, 1981	Second reading, concurred in as amended.
March 28, 1981	Third reading, concurred in as amended. Ayes, 59; Noes, 35.

IN THE SENATE

March 30, 1981

Returned from House with amendments.

April 2, 1981

Second reading, amendments concurred in.

April 4, 1981

Third reading, amendments concurred in. Ayes, 46; Nays, 0. Sent to enrolling.

Reported correctly enrolled.

1 *Steve Brown* BILL NO. 370  
 2 INTRODUCED BY *Steve Brown* STEVE BROWN

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE SALE OF  
 5 HAMBURGER OR GROUND BEEF IN THE VARIOUS FORMS IN WHICH IT IS  
 6 SOLD AT RETAIL; AMENDING SECTIONS 50-31-103, 50-31-110, AND  
 7 50-31-208, MCA."

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

10 Section 1. Section 50-31-103, MCA, is amended to read:

11 "50-31-103. Definitions. Unless the context requires  
 12 otherwise, in this chapter the following definitions apply:

13 (1) "Advertisement" means representations disseminated  
 14 in any manner or by any means, other than by labeling, for  
 15 the purpose of inducing or which are likely to induce,  
 16 directly or indirectly, the purchase of food, drugs,  
 17 devices, or cosmetics.

18 ~~(2) "Beef patty" or "beef patty mix" means "hamburger"~~  
 19 ~~or "ground beef" to which has been added binders or~~  
 20 ~~extenders as those terms are understood by general custom~~  
 21 ~~and usage in the food industry.~~

22 ~~(3) "Color" includes black, white, and intermediate~~  
 23 ~~grays.~~

24 ~~(4) (a) "Color additive" means a material which:~~  
 25 ~~(i) is a dye, pigment, or other substance made by a~~

1 process of synthesis or similar artifice or extracted,  
 2 isolated, or otherwise derived, with or without intermediate  
 3 or final change of identity, from a vegetable, animal,  
 4 mineral, or other source; or

5 (ii) when added or applied to a food, drug, or cosmetic  
 6 or to the human body is capable (alone or through reaction  
 7 with other substance) of imparting color thereto.

8 (b) This term does not include material which has been  
 9 or hereafter is exempted under the federal act.

10 ~~(4)(5) "Consumer commodity", except as otherwise~~  
 11 ~~specifically provided by this subsection, means any food,~~  
 12 ~~drug, device, or cosmetic as those terms are defined by this~~  
 13 ~~chapter or by the federal act and regulations pursuant~~  
 14 ~~thereto. The term does not include:~~

15 (a) any tobacco or tobacco product;

16 (b) a commodity subject to packaging or labeling  
 17 requirements imposed under the Federal Insecticide,  
 18 Fungicide, and Rodenticide Act or the provisions of the  
 19 eighth paragraph under the heading "Bureau of Animal  
 20 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21  
 21 U.S.C. 151-157), commonly known as the virus, serum, and  
 22 toxin act;

23 (c) a drug subject to 50-31-306(1)(m) or  
 24 50-31-307(1)(c) or section 503(b)(1) or 506 of the federal  
 25 act;

1 (d) a beverage subject to or complying with packaging  
2 or labeling requirements imposed under the Federal Alcohol  
3 Administration Act (27 U.S.C., et seq.); or

4 (e) a commodity subject to the Federal Seed Act (7  
5 U.S.C. 1551-1610).

6 ~~(5)(6)~~ "Contaminated with filth" applies to a food,  
7 drug, device, or cosmetic not securely protected from dust,  
8 dirt, and, as far as may be necessary by all reasonable  
9 means, from foreign or injurious contaminations.

10 ~~(6)(7)~~ "Cosmetic" means:

11 (a) articles intended to be rubbed, poured, sprinkled,  
12 sprayed on, introduced into, or otherwise applied to the  
13 human body for cleansing, beautifying, promoting  
14 attractiveness, or altering the appearance;

15 (b) articles intended for use as a component of these  
16 articles, except that the term does not include soap.

17 ~~(7)(8)~~ "Counterfeit drug" means a drug, drug  
18 container, or drug label which, without authorization bears  
19 the trademark, trade name, or other identifying mark,  
20 imprint, or device or any likeness thereof of a drug  
21 manufacturer, processor, packer, or distributor other than  
22 the person who in fact manufactured, processed, packed, or  
23 distributed the drug and which falsely purports or is  
24 represented to be the product of or to have been packed or  
25 distributed by the other drug manufacturer, processor,

1 packer, or distributor.

2 ~~(8)(9)~~ "Department" means the department of health and  
3 environmental sciences, provided for in Title 2, chapter 15,  
4 part 21.

5 ~~(9)(10)~~ "Device" (except when used in 50-31-107(2),  
6 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and  
7 50-31-501(10)) means instruments, apparatus, and  
8 contrivances, including their components, parts, and  
9 accessories, intended:

10 (a) for use in the diagnosis, cure, mitigation,  
11 treatment, or prevention of disease in man or other animals;

12 (b) to affect the structure or function of the body of  
13 man or other animals.

14 ~~(10)(11)~~ "Drug" means:

15 (a) articles recognized in the official United States  
16 Pharmacopoeia, official National Formulary, or a supplement  
17 to either of these;

18 (b) articles intended for use in the diagnosis, cure,  
19 mitigation, treatment, or prevention of disease in man or  
20 other animals;

21 (c) articles (other than food) intended to affect the  
22 structure or function of the body of man or other animals;

23 (d) articles intended for use as components of any  
24 article specified in subsections (a), (b), or (c) but does  
25 not include devices or their components, parts, or

1 accessories.

2 ~~(11)~~(12) "Federal act" means the Federal Food, Drug,  
3 and Cosmetic Act, as amended (Title 21 U.S.C. 301 et seq.).

4 ~~(12)~~(13) "Food" means:

5 (a) articles used for food or drink for man or other  
6 animals;

7 (b) chewing gum; and

8 (c) articles used for components of these articles.

9 ~~(13)~~(14) (a) "Food additive" means a substance, the  
10 intended use of which results or may be reasonably expected  
11 to result, directly or indirectly, in its becoming a  
12 component or otherwise affecting the characteristics of food  
13 (including a substance intended for use in producing,  
14 manufacturing, packing, processing, preparing, treating,  
15 packaging, transporting, or holding food and including a  
16 source of radiation intended for this use), if the substance  
17 is not generally recognized, among experts qualified by  
18 scientific training and experience to evaluate its safety,  
19 as having been adequately shown through scientific  
20 procedures (or, in the case of a substance used in a food  
21 prior to January 1, 1958, through either scientific  
22 procedures or experience based on common use in food) to be  
23 safe under the conditions of its intended use.

24 (b) This term does not include:

25 (i) a pesticide chemical in or on a raw agricultural

1 commodity;

2 (ii) a pesticide chemical to the extent that it is  
3 intended for use or is used in the production, storage, or  
4 transportation of a raw agricultural commodity;

5 (iii) color additives;

6 (iv) substance used in accordance with a sanction or  
7 approval granted prior to the enactment of the Food  
8 Additives Amendment of 1958, pursuant to the federal act,  
9 the Poultry Products Inspection Act (21 U.S.C. 451 et seq.),  
10 or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260),  
11 as amended and extended (21 U.S.C. 71 et seq.).

12 ~~(14)~~(15) "Food service establishment" means a  
13 restaurant, catering vehicle, vending machine, delicatessen,  
14 fast-food retailer, or any other place that serves food to  
15 the public for consumption either at or away from the point  
16 of service, and any facility operated by a governmental  
17 entity where food is served.

18 ~~(15)~~(16) "Hamburger" or "ground beef" means ground  
19 fresh or frozen beef or a combination of both fresh and  
20 frozen beef, with or without the addition of suet, ~~and with~~  
21 ~~or without the addition of seasoning, if no fat--other--that~~  
22 ~~suet is incorporated in the hamburger, the total fat content~~  
23 ~~does not exceed 20%--y-end to which~~ no water, binders, or  
24 extenders are added. There are three grades of hamburger or  
25 ground beef:

1 (a) "economy hamburger" or "economy ground beef" which  
 2 must have a maximum fat content no greater than the federal  
 3 standard set forth in 9 C.F.R. 319.15:

4 (b) "regular hamburger" or "regular ground beef" must  
 5 have a maximum fat content no greater than 24%:

6 (c) "extra lean hamburger" or "extra lean ground beef"  
 7 must have a maximum fat content no greater than 18%.

8 ~~(16)~~(17) "Honey" means the nectar and saccharine  
 9 exudations of plants gathered, modified, and stored in the  
 10 comb by honey bees; is levorotatory, contains not more than  
 11 25% of water, not more than .25% of ash, and not more than  
 12 8% sucrose.

13 ~~(17) "imitation hamburger" means "hamburger" as~~  
 14 ~~defined in subsection (15), to which has been added binders~~  
 15 ~~or extenders or both binders and extenders as those terms~~  
 16 ~~are understood by general custom and usage in the food~~  
 17 ~~industry~~

18 (18) "Label" means a display of written, printed, or  
 19 graphic matter on the immediate container of an article.  
 20 ("Immediate container" does not include package liners.)

21 (19) "Labeling" means labels and other written,  
 22 printed, or graphic matter:

23 (a) on an article or its containers or wrappers;

24 (b) accompanying the article.

25 (20) "Menu" means any list presented to the patron

1 which states the food items for sale in a food service  
 2 establishment.

3 (21) "New drug" means a drug, the composition of which  
 4 is such that:

5 (a) it is not generally recognized, among experts  
 6 qualified by scientific training and experience to evaluate  
 7 the safety and effectiveness of drugs, as safe and effective  
 8 for use under the conditions prescribed, recommended, or  
 9 suggested in its labeling; or

10 (b) the drug, as a result of investigations to  
 11 determine its safety and effectiveness for use under the  
 12 conditions prescribed, has become so recognized but which  
 13 has not, otherwise than in the investigations, been used to  
 14 a material extent or for a material time under the  
 15 conditions prescribed.

16 (22) "Official compendium" means the official United  
 17 States Pharmacopoeia, official National Formulary, or a  
 18 supplement to either of these.

19 (23) "Package" means a container or wrapping in which a  
 20 consumer commodity is enclosed for use in the delivery or  
 21 display of that consumer commodity to retail purchasers but  
 22 does not include:

23 (a) shipping containers or wrappings used solely for  
 24 the transportation of a consumer commodity in bulk or in  
 25 quantity to manufacturers, packers, or processors or to

1 wholesale or retail distributors;

2 (b) shipping containers or outer wrappings used by  
3 retailers to ship or deliver a commodity to retail customers  
4 if the containers and wrappings bear no printed matter  
5 pertaining to a particular commodity.

6 (24) "Person" includes an individual, partnership,  
7 corporation, and association.

8 (25) "Pesticide chemical" means a substance which  
9 alone, in chemical combination, or in formulation with one  
10 or more other substances is an "economic poison" under the  
11 Federal Insecticide, Fungicide, and Rodenticide Act (7  
12 U.S.C., secs. 135-135k), as amended, and which is used in  
13 the production, storage, or transportation of raw  
14 agricultural commodities.

15 (26) "Placard" means any nonpermanent sign used to  
16 display or describe food items for sale in a food service  
17 establishment or retail establishment.

18 (27) "Principal display panel" means that part of a  
19 label that is most likely to be displayed, presented, shown,  
20 or examined under normal and customary conditions of display  
21 for retail sale.

22 (28) "Raw agricultural commodity" means food in its raw  
23 or natural state, including fruits that are washed, colored,  
24 or otherwise treated in their unpeeled natural form prior to  
25 marketing.

1 ~~(29) "Retail establishment" means a commercial~~  
2 ~~establishment at which meat or meat products are displayed~~  
3 ~~for sale or provision to the public with or without charge.~~

4 ~~(29)(30) "State board" or "board" means the board of~~  
5 ~~health and environmental sciences, provided for in~~  
6 ~~2-15-2104.~~

7 ~~(30) "Wallboard" means any permanent sign used to~~  
8 ~~display or describe food items for sale in a food service~~  
9 ~~establishment."~~

10 Section 2. Section 50-31-208, MCA, is amended to read:

11 "50-31-208. Sale of hamburger and ~~imitation-hamburger~~  
12 ~~beef patty or beef patty mix~~. (1) No food service  
13 establishment or retail establishment may use the terms  
14 "hamburger", "burger", or other similar term in any  
15 advertisement or menu to refer to any ~~imitation-hamburger~~  
16 ~~beef patty or beef patty mix~~. A food service establishment  
17 or retail establishment selling or serving ~~imitation~~  
18 ~~hamburger~~ beef patty or beef patty mix may refer to the  
19 product as "~~imitation-hamburger~~ beef patty or beef patty  
20 mix" or by any other term which accurately informs the  
21 customer of the nature of the food product which he is sold  
22 or served.

23 (2) If ~~imitation-hamburger~~ beef patty or beef patty  
24 mix is sold or served in a food service establishment or  
25 retail establishment, a list of ingredients must appear on

1 the menu or label, or, if there is no menu or label, on a  
2 waitboard or placard as follows:

3 (a) The term "imitation-hamburger beef patty or beef  
4 patty mix" or any other term which accurately informs the  
5 customer of the nature of the food product and its  
6 ingredients must be included.

7 (b) The ingredients must be listed in descending order  
8 of predominance by weight.

9 (c) If there is no menu or label, the lettering on the  
10 waitboard or placard must be at least 1 inch in height  
11 (72-point letters) in boldface and in colors that contrast  
12 with the waitboard or placard.

13 (d) The waitboard or placard must be posted in a  
14 permanent place, conspicuous to the customer, in each room  
15 or area where food is served or sold at retail.

16 (3) If hamburger or ground beef is sold in a retail  
17 establishment, the grade, as defined in section  
18 50-31-103(16), and the maximum fat content must appear on a  
19 label or placard. If a placard is used it must satisfy the  
20 requirements of subsections (2)(c) and (2)(d) of this  
21 section. The provisions of this subsection do not apply to  
22 the service of prepared hamburger or ground beef at a food  
23 service establishment."

24 Section 3. Section 50-31-110, MCA, is amended to read:  
25 "50-31-110. Certain agricultural chemicals not color

1 additives. Subsections ~~(2)~~ (3) and ~~(3)~~ (4) of 50-31-103 do  
2 not apply to a pesticide chemical, soil or plant nutrient,  
3 or other agricultural chemical solely because of its effect  
4 in aiding, retarding, or otherwise affecting, directly or  
5 indirectly, the growth or other natural physiological  
6 process of produce of the soil and thereby affecting its  
7 color, whether before or after harvest."

-End-



Approved by Committee  
on Business and Industry

SENATE BILL NO. 370

INTRODUCED BY M. ANDERSON, S. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE SALE OF HAMBURGER OR GROUND BEEF IN THE VARIOUS FORMS IN WHICH IT IS SOLD AT RETAIL; AMENDING SECTIONS 50-31-103, 50-31-110, AND 50-31-208, MCA."

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

Section 1. Section 50-31-103, MCA, is amended to read:

"50-31-103. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Advertisement" means representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

~~(2) "Beef patty" or "beef patty mix" means "hamburger" or "ground beef" to which has been added binders or extenders as those terms are understood by general custom and usage in the food industry.~~

~~(3) "Color" includes black, white, and intermediate grays.~~

~~(4) (a) "Color additive" means a material which:~~

~~(i) is a dye, pigment, or other substance made by a~~

process of synthesis or similar artifice or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

(ii) when added or applied to a food, drug, or cosmetic or to the human body is capable (alone or through reaction with other substance) of imparting color thereto.

(b) This term does not include material which has been or hereafter is exempted under the federal act.

~~(4) (5) "Consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic as those terms are defined by this chapter or by the federal act and regulations pursuant thereto. The term does not include:~~

(a) any tobacco or tobacco product;

(b) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the virus, serum, and toxin act;

(c) a drug subject to 50-31-306(1)(m) or 50-31-307(1)(c) or section 503(b)(1) or 506 of the federal act;

1 (d) a beverage subject to or complying with packaging  
2 or labeling requirements imposed under the Federal Alcohol  
3 Administration Act (27 U.S.C., et seq.); or

4 (e) a commodity subject to the Federal Seed Act (7  
5 U.S.C. 1551-1610).

6 ~~(5)~~(6) "Contaminated with filth" applies to a food,  
7 drug, device, or cosmetic not securely protected from dust,  
8 dirt, and, as far as may be necessary by all reasonable  
9 means, from foreign or injurious contaminations.

10 ~~(6)~~(7) "Cosmetic" means:

11 (a) articles intended to be rubbed, poured, sprinkled,  
12 sprayed on, introduced into, or otherwise applied to the  
13 human body for cleansing, beautifying, promoting  
14 attractiveness, or altering the appearance;

15 (b) articles intended for use as a component of these  
16 articles, except that the term does not include soap.

17 ~~(7)~~(8) "Counterfeit drug" means a drug, drug  
18 container, or drug label which, without authorization bears  
19 the trademark, trade name, or other identifying mark,  
20 imprint, or device or any likeness thereof of a drug  
21 manufacturer, processor, packer, or distributor other than  
22 the person who in fact manufactured, processed, packed, or  
23 distributed the drug and which falsely purports or is  
24 represented to be the product of or to have been packed or  
25 distributed by the other drug manufacturer, processor,

1 packer, or distributor.

2 ~~(8)~~(9) "Department" means the department of health and  
3 environmental sciences, provided for in Title 2, chapter 15,  
4 part 21.

5 ~~(9)~~(10) "Device" (except when used in 50-31-107(2),  
6 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and  
7 50-31-501(10)) means instruments, apparatus, and  
8 contrivances, including their components, parts, and  
9 accessories, intended:

10 (a) for use in the diagnosis, cure, mitigation,  
11 treatment, or prevention of disease in man or other animals;

12 (b) to affect the structure or function of the body of  
13 man or other animals.

14 ~~(10)~~(11) "Drug" means:

15 (a) articles recognized in the official United States  
16 Pharmacopoeia, official National Formulary, or a supplement  
17 to either of these;

18 (b) articles intended for use in the diagnosis, cure,  
19 mitigation, treatment, or prevention of disease in man or  
20 other animals;

21 (c) articles (other than food) intended to affect the  
22 structure or function of the body of man or other animals;

23 (d) articles intended for use as components of any  
24 article specified in subsections (a), (b), or (c) but does  
25 not include devices or their components, parts, or

1 accessories.

2 ~~(11)~~(12) "Federal act" means the Federal Food, Drug,  
3 and Cosmetic Act, as amended (Title 21 U.S.C. 301 et seq.).

4 ~~(12)~~(13) "Food" means:

5 (a) articles used for food or drink for man or other  
6 animals;

7 (b) chewing gum; and

8 (c) articles used for components of these articles.

9 ~~(13)~~(14) (a) "Food additive" means a substance, the  
10 intended use of which results or may be reasonably expected  
11 to result, directly or indirectly, in its becoming a  
12 component or otherwise affecting the characteristics of food  
13 (including a substance intended for use in producing,  
14 manufacturing, packing, processing, preparing, treating,  
15 packaging, transporting, or holding food and including a  
16 source of radiation intended for this use), if the substance  
17 is not generally recognized, among experts qualified by  
18 scientific training and experience to evaluate its safety,  
19 as having been adequately shown through scientific  
20 procedures (or, in the case of a substance used in a food  
21 prior to January 1, 1958, through either scientific  
22 procedures or experience based on common use in food) to be  
23 safe under the conditions of its intended use.

24 (b) This term does not include:

25 (i) a pesticide chemical in or on a raw agricultural

1 commodity;

2 (ii) a pesticide chemical to the extent that it is  
3 intended for use or is used in the production, storage, or  
4 transportation of a raw agricultural commodity;

5 (iii) color additive;

6 (iv) substance used in accordance with a sanction or  
7 approval granted prior to the enactment of the Food  
8 Additives Amendment of 1958, pursuant to the federal act,  
9 the Poultry Products Inspection Act (21 U.S.C. 451 et seq.),  
10 or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260),  
11 as amended and extended (21 U.S.C. 71 et seq.).

12 ~~(14)~~(15) "Food service establishment" means a  
13 restaurant, catering vehicle, vending machine, delicatessen,  
14 fast-food retailer, or any other place that serves food to  
15 the public for consumption either at or away from the point  
16 of service, and any facility operated by a governmental  
17 entity where food is served.

18 ~~(15)~~(16) "Hamburger" or "ground beef" means ground  
19 fresh or frozen beef or a combination of both fresh and  
20 frozen beef, with or without the addition of suet, and ~~with~~  
21 ~~or without the addition of seasoning, if no fat other than~~  
22 ~~suet is incorporated in the hamburger, the total fat content~~  
23 ~~does not exceed 28% and to which~~ no water, binders, or  
24 extenders are added. There are three grades of hamburger or  
25 ground beef:

1 (a) "economy hamburger" or "economy ground beef" which  
 2 must have a maximum fat content no greater than the federal  
 3 standard set forth in 9 C.F.R. 319.15;

4 (b) "regular hamburger" or "regular ground beef" must  
 5 have a maximum fat content no greater than 24%;

6 (c) "extra lean hamburger" or "extra lean ground beef"  
 7 must have a maximum fat content no greater than 18%.

8 ~~(16)~~(17) "Honey" means the nectar and saccharine  
 9 exudations of plants gathered, modified, and stored in the  
 10 comb by honey bees; is levorotatory, contains not more than  
 11 25% of water, not more than .25% of ash, and not more than  
 12 8% sucrose.

13 ~~(17) "imitation--hamburger"--means--"hamburger"--as~~  
 14 ~~defined in subsection (15) to which has been added--binders~~  
 15 ~~or--extenders--or--both--binders--and--extenders--as--those--terms~~  
 16 ~~are understood by general--custom--and--usage--in--the--food~~  
 17 ~~industry.~~

18 (18) "Label" means a display of written, printed, or  
 19 graphic matter on the immediate container of an article.  
 20 ("Immediate container" does not include package liners.)

21 (19) "Labeling" means labels and other written,  
 22 printed, or graphic matter:

- 23 (a) on an article or its containers or wrappers;
- 24 (b) accompanying the article.

25 (20) "Menu" means any list presented to the patron

1 which states the food items for sale in a food service  
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3 (21) "New drug" means a drug, the composition of which  
 4 is such that:

5 (a) it is not generally recognized, among experts  
 6 qualified by scientific training and experience to evaluate  
 7 the safety and effectiveness of drugs, as safe and effective  
 8 for use under the conditions prescribed, recommended, or  
 9 suggested in its labeling; or

10 (b) the drug, as a result of investigations to  
 11 determine its safety and effectiveness for use under the  
 12 conditions prescribed, has become so recognized but which  
 13 has not, otherwise than in the investigations, been used to  
 14 a material extent or for a material time under the  
 15 conditions prescribed.

16 (22) "Official compendium" means the official United  
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 25 quantity to manufacturers, packers, or processors or to

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10 or more other substances is an "economic poison" under the  
11 Federal Insecticide, Fungicide, and Rodenticide Act (7  
12 U.S.C., secs. 135-135k), as amended, and which is used in  
13 the production, storage, or transportation of raw  
14 agricultural commodities.

15 (26) "Placard" means any nonpermanent sign used to  
16 display or describe food items for sale in a food service  
17 establishment or retail establishment.

18 (27) "Principal display panel" means that part of a  
19 label that is most likely to be displayed, presented, shown,  
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24 or otherwise treated in their unpeeled natural form prior to  
25 marketing.

1 (29) "Retail establishment" means a commercial  
2 establishment at which meat or meat products are displayed  
3 for sale or provision to the public with or without charge.

4 ~~(29)(30)~~ "State board" or "board" means the board of  
5 health and environmental sciences, provided for in  
6 2-15-2104.

7 ~~(30) "Wallboard" means any permanent sign used to~~  
8 ~~display or describe food items for sale in a food service~~  
9 ~~establishment."~~

10 Section 2. Section 50-31-208, MCA, is amended to read:

11 "50-31-208. Sale of hamburger and ~~imitation-hamburger~~  
12 beef patty or beef patty mix. (1) No food service  
13 establishment or retail establishment may use the terms  
14 "hamburger", "burger", or other similar term in any  
15 advertisement or menu to refer to any ~~imitation-hamburger~~  
16 beef patty or beef patty mix. A food service establishment  
17 or retail establishment selling or serving ~~imitation~~  
18 hamburger beef patty or beef patty mix may refer to the  
19 product as "~~imitation-hamburger~~ beef patty or beef patty  
20 mix" or by any other term which accurately informs the  
21 customer of the nature of the food product which he is sold  
22 or served.

23 (2) If ~~imitation-hamburger~~ beef patty or beef patty  
24 mix is sold or served in a food service establishment or  
25 retail establishment, a list of ingredients must appear on

1 the menu or label, or, if there is no menu or label, on a  
2 wallboard--or placard as follows:

3 (a) The term "imitation-hamburger beef patty or beef  
4 patty mix" or any other term which accurately informs the  
5 customer of the nature of the food product and its  
6 ingredients must be included.

7 (b) The ingredients must be listed in descending order  
8 of predominance by weight.

9 (c) If there is no menu or label, the lettering on the  
10 wallboard--or placard must be at least 1 inch in height  
11 (72-point letters) in boldface and in colors that contrast  
12 with the wallboard--or placard.

13 (d) The wallboard--or placard must be posted in a  
14 permanent place, conspicuous to the customer, in each room  
15 or area where food is served or sold at retail.

16 (3) If hamburger or ground beef is sold in a retail  
17 establishment, the grade, as defined in section  
18 50-31-103(16), and the maximum fat content must appear on a  
19 label-or-placard EACH DISPLAYED PACKAGE, OR IF THE PRODUCT  
20 IS NOT PACKAGED FOR DISPLAY, ON A PLACARD. If a placard is  
21 used it must satisfy the requirements of subsections (2)(c)  
22 and (2)(d) of this section. The provisions of this  
23 subsection do not apply to the service of prepared hamburger  
24 or ground beef at a food service establishment."

25 Section 3. Section 50-31-110, MCA, is amended to read:

1 "50-31-110. Certain agricultural chemicals not color  
2 additives. Subsections ~~(2)~~ (3) and ~~(3)~~ (4) of 50-31-103 do  
3 not apply to a pesticide chemical, soil or plant nutrient,  
4 or other agricultural chemical solely because of its effect  
5 in aiding, retarding, or otherwise affecting, directly or  
6 indirectly, the growth or other natural physiological  
7 process of produce of the soil and thereby affecting its  
8 color, whether before or after harvest."

-End-

## 1 SENATE BILL NO. 370

2 INTRODUCED BY M. ANDERSON, S. BROWN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE SALE OF  
5 HAMBURGER OR GROUND BEEF IN THE VARIOUS FORMS IN WHICH IT IS  
6 SOLD AT RETAIL; AMENDING SECTIONS 50-31-103, 50-31-110, AND  
7 50-31-208, MCA."

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

10 Section 1. Section 50-31-103, MCA, is amended to read:

11 "50-31-103. Definitions. Unless the context requires  
12 otherwise, in this chapter the following definitions apply:

13 (1) "Advertisement" means representations disseminated  
14 in any manner or by any means, other than by labeling, for  
15 the purpose of inducing or which are likely to induce,  
16 directly or indirectly, the purchase of food, drugs,  
17 devices, or cosmetics.

18 ~~(2) "Beef patty" or "beef patty mix" means "hamburger"~~  
19 ~~or "ground beef" to which has been added binders or~~  
20 ~~extenders as those terms are understood by general custom~~  
21 ~~and usage in the food industry.~~

22 ~~(3) "Color" includes black, white, and intermediate~~  
23 ~~grays.~~

24 ~~(4) (a) "Color additive" means a material which:~~

25 (i) is a dye, pigment, or other substance made by a

1 process of synthesis or similar artifice or extracted,  
2 isolated, or otherwise derived, with or without intermediate  
3 or final change of identity, from a vegetable, animal,  
4 mineral, or other source; or

5 (ii) when added or applied to a food, drug, or cosmetic  
6 or to the human body is capable (alone or through reaction  
7 with other substance) of imparting color thereto.

8 (b) This term does not include material which has been  
9 or hereafter is exempted under the federal act.

10 ~~(5) "Consumer commodity", except as otherwise~~  
11 ~~specifically provided by this subsection, means any food,~~  
12 ~~drug, device, or cosmetic as those terms are defined by this~~  
13 ~~chapter or by the federal act and regulations pursuant~~  
14 ~~thereto. The term does not include:~~

15 (a) any tobacco or tobacco product;

16 (b) a commodity subject to packaging or labeling  
17 requirements imposed under the Federal Insecticide,  
18 Fungicide, and Rodenticide Act or the provisions of the  
19 eighth paragraph under the heading "Bureau of Animal  
20 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21  
21 U.S.C. 151-157), commonly known as the virus, serum, and  
22 toxin act;

23 (c) a drug subject to 50-31-306(1)(m) or  
24 50-31-307(1)(c) or section 503(b)(1) or 506 of the federal  
25 act;

1 (d) a beverage subject to or complying with packaging  
2 or labeling requirements imposed under the Federal Alcohol  
3 Administration Act (27 U.S.C., et seq.); or

4 (e) a commodity subject to the Federal Seed Act (7  
5 U.S.C. 1551-1610).

6 ~~(5)~~(6) "Contaminated with filth" applies to a food,  
7 drug, device, or cosmetic not securely protected from dust,  
8 dirt, and, as far as may be necessary by all reasonable  
9 means, from foreign or injurious contaminations.

10 ~~(6)~~(7) "Cosmetic" means:

11 (a) articles intended to be rubbed, poured, sprinkled,  
12 sprayed on, introduced into, or otherwise applied to the  
13 human body for cleansing, beautifying, promoting  
14 attractiveness, or altering the appearance;

15 (b) articles intended for use as a component of these  
16 articles, except that the term does not include soap.

17 ~~(7)~~(8) "Counterfeit drug" means a drug, drug  
18 container, or drug label which, without authorization bears  
19 the trademark, trade name, or other identifying mark,  
20 imprint, or device or any likeness thereof of a drug  
21 manufacturer, processor, packer, or distributor other than  
22 the person who in fact manufactured, processed, packed, or  
23 distributed the drug and which falsely purports or is  
24 represented to be the product of or to have been packed or  
25 distributed by the other drug manufacturer, processor,

1 packer, or distributor.

2 ~~(9)~~(9) "Department" means the department of health and  
3 environmental sciences, provided for in Title 2, chapter 15,  
4 part 21.

5 ~~(10)~~(10) "Device" (except when used in 50-31-107(2),  
6 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and  
7 50-31-501(10)) means instruments, apparatus, and  
8 contrivances, including their components, parts, and  
9 accessories, intended:

10 (a) for use in the diagnosis, cure, mitigation,  
11 treatment, or prevention of disease in man or other animals;

12 (b) to affect the structure or function of the body of  
13 man or other animals.

14 ~~(11)~~(11) "Drug" means:

15 (a) articles recognized in the official United States  
16 Pharmacopoeia, official National Formulary, or a supplement  
17 to either of these;

18 (b) articles intended for use in the diagnosis, cure,  
19 mitigation, treatment, or prevention of disease in man or  
20 other animals;

21 (c) articles (other than food) intended to affect the  
22 structure or function of the body of man or other animals;

23 (d) articles intended for use as components of any  
24 article specified in subsections (a), (b), or (c) but does  
25 not include devices or their components, parts, or



1 accessories.

2 ~~(11)~~(12) "Federal act" means the Federal Food, Drug,  
3 and Cosmetic Act, as amended (Title 21 U.S.C. 301 et seq.).

4 ~~(12)~~(13) "Food" means:

5 (a) articles used for food or drink for man or other  
6 animals;

7 (b) chewing gum; and

8 (c) articles used for components of these articles.

9 ~~(13)~~(14) (a) "Food additive" means a substance, the  
10 intended use of which results or may be reasonably expected  
11 to result, directly or indirectly, in its becoming a  
12 component or otherwise affecting the characteristics of food  
13 (including a substance intended for use in producing,  
14 manufacturing, packing, processing, preparing, treating,  
15 packaging, transporting, or holding food and including a  
16 source of radiation intended for this use), if the substance  
17 is not generally recognized, among experts qualified by  
18 scientific training and experience to evaluate its safety,  
19 as having been adequately shown through scientific  
20 procedures (or, in the case of a substance used in a food  
21 prior to January 1, 1958, through either scientific  
22 procedures or experience based on common use in food) to be  
23 safe under the conditions of its intended use.

24 (b) This term does not include:

25 (i) a pesticide chemical in or on a raw agricultural

1 commodity;

2 (ii) a pesticide chemical to the extent that it is  
3 intended for use or is used in the production, storage, or  
4 transportation of a raw agricultural commodity;

5 (iii) color additive;

6 (iv) substance used in accordance with a sanction or  
7 approval granted prior to the enactment of the Food  
8 Additives Amendment of 1958, pursuant to the Federal act,  
9 the Poultry Products Inspection Act (21 U.S.C. 451 et seq.),  
10 or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260),  
11 as amended and extended (21 U.S.C. 71 et seq.).

12 ~~(14)~~(15) "Food service establishment" means a  
13 restaurant, catering vehicle, vending machine, delicatessen,  
14 fast-food retailer, or any other place that serves food to  
15 the public for consumption either at or away from the point  
16 of service, and any facility operated by a governmental  
17 entity where food is served.

18 ~~(15)~~(16) "Hamburger" or "ground beef" means ground  
19 fresh or frozen beef or a combination of both fresh and  
20 frozen beef, with or without the addition of suet, and with  
21 ~~or without the addition of seasonings, if no fat other than~~  
22 ~~suet is incorporated in the hamburger, the total fat content~~  
23 ~~does not exceed 20% and to which~~ no water, binders, or  
24 extenders are added. There are three grades of hamburger or  
25 ground beef:

1 (a) "economy hamburger" or "economy ground beef" which  
 2 must have a maximum fat content no greater than the federal  
 3 standard set forth in 9 C.F.R. 319.15;

4 (b) "regular hamburger" or "regular ground beef" must  
 5 have a maximum fat content no greater than 24%;

6 (c) "extra lean hamburger" or "extra lean ground beef"  
 7 must have a maximum fat content no greater than 18%.

8 ~~{16}{17}~~ "Honey" means the nectar and saccharine  
 9 exudations of plants gathered, modified, and stored in the  
 10 comb by honey bees; is levorotatory, contains not more than  
 11 25% of water, not more than .25% of ash, and not more than  
 12 8% sucrose.

13 ~~{17} "imitation" hamburger" means "hamburger", as~~  
 14 ~~defined in subsection {15}, to which has been added binders~~  
 15 ~~or extenders or both binders and extenders as those terms~~  
 16 ~~are understood by general custom and usage in the food~~  
 17 ~~industry.~~

18 (18) "Label" means a display of written, printed, or  
 19 graphic matter on the immediate container of an article.  
 20 ("Immediate container" does not include package liners.)

21 (19) "Labeling" means labels and other written,  
 22 printed, or graphic matter:

23 (a) on an article or its containers or wrappers;

24 (b) accompanying the article.

25 (20) "Menu" means any list presented to the patron

1 which states the food items for sale in a food service  
 2 establishment.

3 (21) "New drug" means a drug, the composition of which  
 4 is such that:

5 (a) it is not generally recognized, among experts  
 6 qualified by scientific training and experience to evaluate  
 7 the safety and effectiveness of drugs, as safe and effective  
 8 for use under the conditions prescribed, recommended, or  
 9 suggested in its labeling; or

10 (b) the drug, as a result of investigations to  
 11 determine its safety and effectiveness for use under the  
 12 conditions prescribed, has become so recognized but which  
 13 has not, otherwise than in the investigations, been used to  
 14 a material extent or for a material time under the  
 15 conditions prescribed.

16 (22) "Official compendium" means the official United  
 17 States Pharmacopoeia, official National Formulary, or a  
 18 supplement to either of these.

19 (23) "Package" means a container or wrapping in which a  
 20 consumer commodity is enclosed for use in the delivery or  
 21 display of that consumer commodity to retail purchasers but  
 22 does not include:

23 (a) shipping containers or wrappings used solely for  
 24 the transportation of a consumer commodity in bulk or in  
 25 quantity to manufacturers, packers, or processors or to

1 wholesale or retail distributors;

2 (b) shipping containers or outer wrappings used by  
3 retailers to ship or deliver a commodity to retail customers  
4 if the containers and wrappings bear no printed matter  
5 pertaining to a particular commodity.

6 (24) "Person" includes an individual, partnership,  
7 corporation, and association.

8 (25) "Pesticide chemical" means a substance which  
9 alone, in chemical combination, or in formulation with one  
10 or more other substances is an "economic poison" under the  
11 Federal Insecticide, Fungicide, and Rodenticide Act (7  
12 U.S.C., secs. 135-135k), as amended, and which is used in  
13 the production, storage, or transportation of raw  
14 agricultural commodities.

15 (26) "Placard" means any nonpermanent sign used to  
16 display or describe food items for sale in a food service  
17 establishment or retail establishment.

18 (27) "Principal display panel" means that part of a  
19 label that is most likely to be displayed, presented, shown,  
20 or examined under normal and customary conditions of display  
21 for retail sale.

22 (28) "Raw agricultural commodity" means food in its raw  
23 or natural state, including fruits that are washed, colored,  
24 or otherwise treated in their unpeeled natural form prior to  
25 marketing.

1 (29) "Retail establishment" means a commercial  
2 establishment at which meat or meat products are displayed  
3 for sale or provision to the public with or without charge.

4 ~~(29)(30)~~ "State board" or "board" means the board of  
5 health and environmental sciences, provided for in  
6 2-15-2104.

7 ~~(38) "Wallboard" means any permanent sign used to~~  
8 ~~display or describe food items for sale in a food service~~  
9 ~~establishment."~~

10 Section 2. Section 50-31-208, MCA, is amended to read:

11 "50-31-208. Sale of hamburger and ~~imitation-hamburger~~  
12 ~~beef-patty--or~~ beef patty mix. (1) No food service  
13 establishment or retail establishment may use the terms  
14 "hamburger", "burger", or other similar term in any  
15 advertisement or menu to refer to any ~~imitation-hamburger~~  
16 ~~beef-patty--or~~ beef patty mix. A food service establishment  
17 or retail establishment selling or serving imitation  
18 hamburger ~~beef-patty--or~~ beef patty mix may refer to the  
19 product as "~~imitation-hamburger~~ beef patty or beef patty  
20 mix" or by any other term which accurately informs the  
21 customer of the nature of the food product which he is sold  
22 or served.

23 (2) If ~~imitation-hamburger~~ beef-patty--or beef patty  
24 mix is sold or served in a food service establishment or  
25 retail establishment, a list of ingredients must appear on

1 the menu or label, or, if there is no menu or label, on a  
2 waitboard or placard as follows:

3 (a) The term "~~imitation-hamburger~~ beef-patty ~~or beef~~  
4 patty mix" or any other term which accurately informs the  
5 customer of the nature of the food product and its  
6 ingredients must be included.

7 (b) The ingredients must be listed in descending order  
8 of predominance by weight.

9 (c) If there is no menu or label, the lettering on the  
10 waitboard or placard must be at least 1 inch in height  
11 (72-point letters) in boldface and in colors that contrast  
12 with the waitboard or placard.

13 (d) The waitboard or placard must be posted in a  
14 permanent place, conspicuous to the customer, in each room  
15 or area where food is served or sold at retail.

16 (3) If hamburger or ground beef is sold in a retail  
17 establishment, the grade, as defined in section  
18 50-31-103(16), and the maximum fat content must appear on a  
19 label or placard EACH DISPLAYED PACKAGE, OR IF THE PRODUCT  
20 IS NOT PACKAGED FOR DISPLAY, ON A PLACARD. If a placard is  
21 used it must satisfy the requirements of subsections (2)(c)  
22 and (2)(d) of this section. The provisions of this  
23 subsection do not apply to the service of prepared hamburger  
24 or ground beef at a food service establishment."

25 Section 3. Section 50-31-110, MCA, is amended to read:

1 "50-31-110. Certain agricultural chemicals not color  
2 additives. Subsections ~~(2)~~ (3) and ~~(3)~~ (4) of 50-31-103 do  
3 not apply to a pesticide chemical, soil or plant nutrient,  
4 or other agricultural chemical solely because of its effect  
5 in aiding, retarding, or otherwise affecting, directly or  
6 indirectly, the growth or other natural physiological  
7 process of produce of the soil and thereby affecting its  
8 color, whether before or after harvest."

-End-

## 1 SENATE BILL NO. 370

2 INTRODUCED BY M. ANDERSON, S. BROWN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE SALE OF  
5 HAMBURGER OR GROUND BEEF IN THE VARIOUS FORMS IN WHICH IT IS  
6 SOLD AT RETAIL; AMENDING SECTIONS 50-31-103, 50-31-110, AND  
7 50-31-208, MCA."

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

10 Section 1. Section 50-31-103, MCA, is amended to read:

11 "50-31-103. Definitions. Unless the context requires  
12 otherwise, in this chapter the following definitions apply:

13 (1) "Advertisement" means representations disseminated  
14 in any manner or by any means, other than by labeling, for  
15 the purpose of inducing or which are likely to induce,  
16 directly or indirectly, the purchase of food, drugs,  
17 devices, or cosmetics.

18 (2) "Beef patty"-or-"beef patty mix" means "hamburger"  
19 or "ground beef" to which has been added binders or  
20 extenders as those terms are understood by general custom  
21 and usage in the food industry.

22 ~~(2)~~(3) "Color" includes black, white, and intermediate  
23 grays.

24 ~~(3)~~(4) (a) "Color additive" means a material which:

25 (i) is a dye, pigment, or other substance made by a

1 process of synthesis or similar artifice or extracted,  
2 isolated, or otherwise derived, with or without intermediate  
3 or final change of identity, from a vegetable, animal,  
4 mineral, or other source; or

5 (ii) when added or applied to a food, drug, or cosmetic  
6 or to the human body is capable (alone or through reaction  
7 with other substance) of imparting color thereto.

8 (b) This term does not include material which has been  
9 or hereafter is exempted under the federal act.

10 ~~(4)~~(5) "Consumer commodity", except as otherwise  
11 specifically provided by this subsection, means any food,  
12 drug, device, or cosmetic as those terms are defined by this  
13 chapter or by the federal act and regulations pursuant  
14 thereto. The term does not include:

15 (a) any tobacco or tobacco product;

16 (b) a commodity subject to packaging or labeling  
17 requirements imposed under the Federal Insecticide,  
18 Fungicide, and Rodenticide Act or the provisions of the  
19 eighth paragraph under the heading "Bureau of Animal  
20 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21  
21 U.S.C. 151-157), commonly known as the virus, serum, and  
22 toxin act;

23 (c) a drug subject to 50-31-306(1)(m) or  
24 50-31-307(1)(c) or section 503(b)(1) or 506 of the federal  
25 act;

1 (d) a beverage subject to or complying with packaging  
2 or labeling requirements imposed under the Federal Alcohol  
3 Administration Act (27 U.S.C., et seq.); or

4 (e) a commodity subject to the Federal Seed Act (7  
5 U.S.C. 1551-1610).

6 ~~(5)~~(6) "Contaminated with filth" applies to a food,  
7 drug, device, or cosmetic not securely protected from dust,  
8 dirt, and, as far as may be necessary by all reasonable  
9 means, from foreign or injurious contaminations.

10 ~~(6)~~(7) "Cosmetic" means:

11 (a) articles intended to be rubbed, poured, sprinkled,  
12 sprayed on, introduced into, or otherwise applied to the  
13 human body for cleansing, beautifying, promoting  
14 attractiveness, or altering the appearance;

15 (b) articles intended for use as a component of these  
16 articles, except that the term does not include soap.

17 ~~(7)~~(8) "Counterfeit drug" means a drug, drug  
18 container, or drug label which, without authorization bears  
19 the trademark, trade name, or other identifying mark,  
20 imprint, or device or any likeness thereof of a drug  
21 manufacturer, processor, packer, or distributor other than  
22 the person who in fact manufactured, processed, packed, or  
23 distributed the drug and which falsely purports or is  
24 represented to be the product of or to have been packed or  
25 distributed by the other drug manufacturer, processor,

1 packer, or distributor.

2 ~~(8)~~(9) "Department" means the department of health and  
3 environmental sciences, provided for in Title 2, chapter 15,  
4 part 21.

5 ~~(9)~~(10) "Device" (except when used in 50-31-107(2),  
6 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and  
7 50-31-501(10)) means instruments, apparatus, and  
8 contrivances, including their components, parts, and  
9 accessories, intended:

10 (a) for use in the diagnosis, cure, mitigation,  
11 treatment, or prevention of disease in man or other animals;

12 (b) to affect the structure or function of the body of  
13 man or other animals.

14 ~~(10)~~(11) "Drug" means:

15 (a) articles recognized in the official United States  
16 Pharmacopoeia, official National Formulary, or a supplement  
17 to either of these;

18 (b) articles intended for use in the diagnosis, cure,  
19 mitigation, treatment, or prevention of disease in man or  
20 other animals;

21 (c) articles (other than food) intended to affect the  
22 structure or function of the body of man or other animals;

23 (d) articles intended for use as components of any  
24 article specified in subsections (a), (b), or (c) but does  
25 not include devices or their components, parts, or

1 accessories.

2 ~~†††~~(12) "Federal act" means the Federal Food, Drug,

3 and Cosmetic Act, as amended (Title 21 U.S.C. 301 et seq.).

4 ~~†††~~(13) "Food" means:

5 (a) articles used for food or drink for man or other

6 animals;

7 (b) chewing gum; and

8 (c) articles used for components of these articles.

9 ~~†††~~(14) (a) "Food additive" means a substance, the

10 intended use of which results or may be reasonably expected

11 to result, directly or indirectly, in its becoming a

12 component or otherwise affecting the characteristics of food

13 (including a substance intended for use in producing,

14 manufacturing, packing, processing, preparing, treating,

15 packaging, transporting, or holding food and including a

16 source of radiation intended for this use), if the substance

17 is not generally recognized, among experts qualified by

18 scientific training and experience to evaluate its safety,

19 as having been adequately shown through scientific

20 procedures (or, in the case of a substance used in a food

21 prior to January 1, 1958, through either scientific

22 procedures or experience based on common use in food) to be

23 safe under the conditions of its intended use.

24 (b) This term does not include:

25 (i) a pesticide chemical in or on a raw agricultural

1 commodity;

2 (ii) a pesticide chemical to the extent that it is

3 intended for use or is used in the production, storage, or

4 transportation of a raw agricultural commodity;

5 (iii) color additive;

6 (iv) substance used in accordance with a sanction or

7 approval granted prior to the enactment of the Food

8 Additives Amendment of 1958, pursuant to the federal act,

9 the Poultry Products Inspection Act (21 U.S.C. 451 et seq.),

10 or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260),

11 as amended and extended (21 U.S.C. 71 et seq.).

12 ~~†††~~(15) "Food service establishment" means a

13 restaurant, catering vehicle, vending machine, delicatessen,

14 fast-food retailer, or any other place that serves food to

15 the public for consumption either at or away from the point

16 of service, and any facility operated by a governmental

17 entity where food is served.

18 ~~†††~~(16) "Hamburger" or "ground beef" means ground

19 fresh or frozen beef or a combination of both fresh and

20 frozen beef, with or without the addition of suet, ~~and with~~

21 ~~or without the addition of seasoning, if no fat other than~~

22 ~~suet is incorporated in the hamburger, the total fat content~~

23 ~~does not exceed 20% and to which~~ no water, binders, or

24 extenders are added. There are three grades of hamburger or

25 ground beef:

1 (a) "economy hamburger" or "economy ground beef" which  
 2 MAY must have a maximum fat content no greater than the  
 3 federal standard set forth in 9 C.F.R. 319.15;

4 (b) "regular hamburger" or "regular ground beef" must  
 5 MAY have a maximum fat content no greater than 24% 21%;

6 (c) "extra lean hamburger" or "extra lean ground beef"  
 7 must MAY have a maximum fat content no greater than 18%.

8 ~~(16)~~(17) "Honey" means the nectar and saccharine  
 9 exudations of plants gathered, modified, and stored in the  
 10 comb by honey bees; is levorotatory, contains not more than  
 11 25% of water, not more than .25% of ash, and not more than  
 12 8% sucrose.

13 ~~(17) "imitation hamburger" means "hamburger" as~~  
 14 ~~defined in subsection (15), to which has been added binders~~  
 15 ~~or extenders or both binders and extenders as those terms~~  
 16 ~~are understood by general custom and usage in the food~~  
 17 ~~industry.~~

18 (18) "Label" means a display of written, printed, or  
 19 graphic matter on the immediate container of an article.  
 20 ("Immediate container" does not include package liners.)

21 (19) "Labeling" means labels and other written,  
 22 printed, or graphic matter:

- 23 (a) on an article or its containers or wrappers;
- 24 (b) accompanying the article.

25 (20) "Menu" means any list presented to the patron

1 which states the food items for sale in a food service  
 2 establishment.

3 (21) "New drug" means a drug, the composition of which  
 4 is such that:

5 (a) it is not generally recognized, among experts  
 6 qualified by scientific training and experience to evaluate  
 7 the safety and effectiveness of drugs, as safe and effective  
 8 for use under the conditions prescribed, recommended, or  
 9 suggested in its labeling; or

10 (b) the drug, as a result of investigations to  
 11 determine its safety and effectiveness for use under the  
 12 conditions prescribed, has become so recognized but which  
 13 has not, otherwise than in the investigations, been used to  
 14 a material extent or for a material time under the  
 15 conditions prescribed.

16 (22) "Official compendium" means the official United  
 17 States Pharmacopoeia, official National Formulary, or a  
 18 supplement to either of these.

19 (23) "Package" means a container or wrapping in which a  
 20 consumer commodity is enclosed for use in the delivery or  
 21 display of that consumer commodity to retail purchasers but  
 22 does not include:

- 23 (a) shipping containers or wrappings used solely for  
 24 the transportation of a consumer commodity in bulk or in  
 25 quantity to manufacturers, packers, or processors or to



1 wholesale or retail distributors;

2 (b) shipping containers or outer wrappings used by  
3 retailers to ship or deliver a commodity to retail customers  
4 if the containers and wrappings bear no printed matter  
5 pertaining to a particular commodity.

6 (24) "Person" includes an individual, partnership,  
7 corporation, and association.

8 (25) "Pesticide chemical" means a substance which  
9 alone, in chemical combination, or in formulation with one  
10 or more other substances is an "economic poison" under the  
11 Federal Insecticide, Fungicide, and Rodenticide Act (7  
12 U.S.C., secs. 135-135k), as amended, and which is used in  
13 the production, storage, or transportation of raw  
14 agricultural commodities.

15 (26) "Placard" means any nonpermanent sign used to  
16 display or describe food items for sale in a food service  
17 establishment or retail establishment.

18 (27) "Principal display panel" means that part of a  
19 label that is most likely to be displayed, presented, shown,  
20 or examined under normal and customary conditions of display  
21 for retail sale.

22 (28) "Raw agricultural commodity" means food in its raw  
23 or natural state, including fruits that are washed, colored,  
24 or otherwise treated in their unpeeled natural form prior to  
25 marketing.

1 (29) "Retail establishment" means a commercial  
2 establishment at which meat or meat products are displayed  
3 for sale or provision to the public with or without charge.

4 ~~(29)(30)~~ "State board" or "board" means the board of  
5 health and environmental sciences, provided for in  
6 2-15-2104.

7 ~~(30) "Wallboard" means any permanent sign used to~~  
8 ~~display or describe food items for sale in a food service~~  
9 ~~establishment."~~

10 Section 2. Section 50-31-208, MCA, is amended to read:

11 "50-31-208. Sale of hamburger and ~~imitation-hamburger~~  
12 ~~beef-patty-or~~ beef patty mix. (1) No food service  
13 establishment or retail establishment may use the terms  
14 "hamburger", "burger", or other similar term in any  
15 advertisement or menu to refer to any ~~imitation-hamburger~~  
16 ~~beef-patty-or~~ beef patty mix. A food service establishment  
17 or retail establishment selling or serving ~~imitation~~  
18 ~~hamburger~~ beef-patty-or beef patty mix may refer to the  
19 product as "~~imitation-hamburger~~ beef-patty-or beef patty  
20 mix" or by any other term which accurately informs the  
21 customer of the nature of the food product which he is sold  
22 or served.

23 (2) If ~~imitation-hamburger~~ beef-patty-or beef patty  
24 mix is sold or served in a food service establishment or  
25 retail establishment, a list of ingredients must appear on

1 the menu or label, or, if there is no menu or label, on a  
2 wallboard--or placard as follows:

3 (a) The term "~~imitation-hamburger~~ beef-patty--or beef  
4 patty mix" or any other term which accurately informs the  
5 customer of the nature of the food product and its  
6 ingredients must be included.

7 (b) The ingredients must be listed in descending order  
8 of predominance by weight.

9 (c) If there is no menu or label, the lettering on the  
10 wallboard--or placard must be at least 1 inch in height  
11 (72-point letters) in boldface and in colors that contrast  
12 with the wallboard--or placard.

13 (d) The wallboard--or placard must be posted in a  
14 permanent place, conspicuous to the customer, in each room  
15 or area where food is served or sold at retail.

16 (3) If hamburger or ground beef is sold in a retail  
17 establishment, the grade, as defined in section  
18 50-31-103(16), and the maximum fat content must appear on a  
19 label-or-placard EACH DISPLAYED PACKAGE, OR IF THE PRODUCT  
20 IS NOT PACKAGED FOR DISPLAY, ON A PLACARD. If a placard is  
21 used it must satisfy the requirements of subsections (2)(c)  
22 and (2)(d) of this section. The provisions of this  
23 subsection do not apply to the service of prepared hamburger  
24 or ground beef at a food service establishment."

25 Section 3. Section 50-31-110, MCA, is amended to read:

1 "50-31-110. Certain agricultural chemicals not color  
2 additives. Subsections ~~(2)~~ (3) and ~~(3)~~ (4) of 50-31-103 do  
3 not apply to a pesticide chemical, soil or plant nutrient,  
4 or other agricultural chemical solely because of its effect  
5 in aiding, retarding, or otherwise affecting, directly or  
6 indirectly, the growth or other natural physiological  
7 process of produce of the soil and thereby affecting its  
8 color, whether before or after harvest."

-End-

House amendments to Senate Bill 370

1. Page 7, line 1.  
Following: "beef"  
Strike: "which"  
Insert: "may"

2. Page 7, line 2.  
Strike: "must"  
Following: "a"  
Strike: "maximum"

3. Page 7, line 4.  
Following: "beef"  
Strike: "must"  
Insert: "may"

4. Page 7, line 5.  
Following: "a"  
Strike: "maximum"  
Following: "than"  
Strike: "24%"  
Insert: "21%"

5. Page 7, line 7.  
Strike: "must"  
Insert: "may"  
Following: "a"  
Strike: "maximum"