

HOUSE BILL NO. 27

INTRODUCED BY KOEHNKE, SALES,
ELLERD, LYBECK, CONNELLY

IN THE HOUSE

January 3, 1983	Introduced and referred to Committee on Judiciary.
January 11, 1983	On motion by chief sponsor, Representative Sales, Ellerd, et al. were added as authors to the prefiled bill.
January 13, 1983	Committee recommend bill do pass as amended. Report adopted.
January 14, 1983	Bill printed and placed on members' desks.
January 15, 1983	Second reading, do pass.
January 17, 1983	Considered correctly engrossed.
January 18, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 19, 1983	Introduced and referred to Committee on Judiciary.
February 9, 1983	Committee recommend bill be concurred in. Report adopted.
February 12, 1983	Second reading, concurred in. Ayes, 49; Noes, 0.
February 15, 1983	Third reading, concurred in.

IN THE HOUSE

February 15, 1983

Returned to House.

February 16, 1983

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 27
2 INTRODUCED BY KOEHNKE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND MONTANA'S
5 CODIFICATION OF THE UNIFORM COMMERCIAL CODE TO PROVIDE THAT
6 THERE ARE NO IMPLIED WARRANTIES THAT CERTIFIED AGRICULTURAL
7 SEED IS DISEASE FREE; AMENDING SECTION 30-2-316, MCA."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 30-2-316, MCA, is amended to read:
11 "30-2-316. Exclusion or modification of warranties.
12 (1) Words or conduct relevant to the creation of an express
13 warranty and words or conduct tending to negate or limit
14 warranty shall be construed wherever reasonable as
15 consistent with each other; but subject to the provisions of
16 this chapter on parol or extrinsic evidence (30-2-202)
17 negation or limitation is inoperative to the extent that
18 such construction is unreasonable.
19 (2) Subject to subsection (3), to exclude or modify
20 the implied warranty of merchantability or any part of it
21 the language must mention merchantability and in case of a
22 writing must be conspicuous, and to exclude or modify any
23 implied warranty of fitness the exclusion must be by a
24 writing and conspicuous. Language to exclude all implied
25 warranties of fitness is sufficient if it states, for

1 example, that "There are no warranties which extend beyond
2 the description on the face hereof."
3 (3) Notwithstanding subsection (2):
4 (a) unless the circumstances indicate otherwise, all
5 implied warranties are excluded by expressions like "as is",
6 "with all faults" or other language which in common
7 understanding calls the buyer's attention to the exclusion
8 of warranties and makes plain that there is no implied
9 warranty; and
10 (b) when the buyer before entering into the contract
11 has examined the goods or the sample or model as fully as he
12 desired or has refused to examine the goods there is no
13 implied warranty with regard to defects which an examination
14 ought in the circumstances to have revealed to him; and
15 (c) an implied warranty can also be excluded or
16 modified by course of dealing or course of performance or
17 usage of trade; and
18 (d) in sales of cattle, hogs, sheep, and ~~or~~ horses,
19 there are no implied warranties, as defined in this chapter,
20 that the cattle, hogs, sheep, or horses are free from
21 sickness or disease; and
22 ~~(e) in sales of either botanical or vegetative types~~
23 ~~of certified agricultural seed that has been produced and~~
24 ~~certified pursuant to Title 80, chapter 5, part 3, there are~~
25 ~~no implied warranties, as defined in this chapter, that the~~

1 seeds are free from disease, virus, or any kind of
2 pathogenic organisms.

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

-End-

Approved by Committee
on Judiciary

As Amended

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A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND MONTANA'S
CODIFICATION OF THE UNIFORM COMMERCIAL CODE TO PROVIDE THAT
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SEED FOR PLANTING IS DISEASE FREE; AMENDING SECTION
30-2-316, MCA."

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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):

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implied warranties are excluded by expressions like "as is",
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understanding calls the buyer's attention to the exclusion
of warranties and makes plain that there is no implied
warranty; and

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has examined the goods or the sample or model as fully as he
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(c) an implied warranty can also be excluded or
modified by course of dealing or course of performance or
usage of trade; and

(d) in sales of cattle, hogs, sheep, and or horses,
there are no implied warranties, as defined in this chapter,
that the cattle, hogs, sheep, or horses are free from
sickness or disease; and

~~(e) in sales of either botanical or vegetative types
of certified agricultural seed that has been produced and~~

1 ~~certified pursuant to Title 30, chapter 5, part 2~~ ANY SEED
2 ~~FOR PLANTING (INCLUDING BOTH BOTANICAL AND VEGETATIVE TYPES~~
3 ~~OF SEED, WHETHER CERTIFIED OR NOT), there are no implied~~
4 ~~warranties, as defined in this chapter, that the seeds are~~
5 ~~free from disease, virus, or any kind of pathogenic~~
6 ~~organisms.~~

7 (4) Remedies for breach of warranty can be limited in
8 accordance with the provisions of this chapter on
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sickness or disease; and

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of certified agricultural seed that has been produced and~~

THIRD READING

1 ~~certified pursuant to Title 60, chapter 5, part 2 ANY SEED~~
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that the cattle, hogs, sheep, or horses are free from
sickness or disease; and

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of certified agricultural seed that has been produced and~~

1 ~~certified--pursuant--to--title--88--chapter--5--part--3~~ ANY SEED
2 ~~FOR PLANTING (INCLUDING BOTH BOTANICAL AND VEGETATIVE TYPES~~
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