HOUSE BILL NO, 27

INTRODUCED BY KOEHNKE, SALES, ELLERD, LYBECK, CONNELLY

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IN THE HOUSE

January 3	3, 1983	Introduced and referred to Committee on Judiciary.
January 1	11, 1983	On motion by chief sponsor, Representative Sales, Ellerd, et al. were added as authors to the prefiled bill.
January 1	13, 1983	Committee recommend bill do pass as amended. Report adopted.
January 1	14, 1983	Bill printed and placed on members' desks.
January 1	15, 1983	Second reading, do pass.
January]	17, 1983	Considered correctly engrossed.
January 1	18, 1983	Third reading, passed. Transmitted to Senate.
	IN THE SE	INATE
January 1	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

February 16, 1983

Returned to House. Sent to enrolling. Reported correctly enrolled.

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HOUSE BILL NO. 27 1 1 INTRODUCED BY KOEHNKE 2 1942.2 2 3 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND MONTANA'S 4 4 5 CODIFICATION OF THE UNIFORM CONNERCIAL CODE TO PROVIDE THAT 5 THERE ARE NO IMPLIED WARRANTIES THAT CERTIFIED AGRICULTURAL 6 6 7 7 SEED IS DISEASE FREE: AMENDING SECTION 30-2-316. MCA." 8 B 9 9 BE IT FNACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 10 Section 1. Section 30-2-316, NCA, is amended to read: 11 11 "30-2-316. Exclusion or modification of warranties. (1) Words or conduct relevant to the creation of an express 12 12 13 13 warranty and words or conduct tending to negate or limit 14 warranty shall be construed wherever reasonable as 14 15 consistent with each other; but subject to the provisions of 15 16 16 this chapter on parol or extrinsic evidence (30-2-202) negation or limitation is inoperative to the extent that 17 17 such construction is unreasonable. 18 18 19 (2) Subject to subsection (3), to exclude or modify 19 20 the implied warranty of merchantability or any part of it 20 the language must mention merchantability and in case of a 21 21 22 writing must be conspicuous, and to exclude or modify any 22 implied warranty of fitness the exclusion must be by a 23 23 writing and conspicuous. Language to exclude all implied 24 24 25 warranties of fitness is sufficient if it states, for 25

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example, that "There are no warranties which extend beyond
 the description on the face hereof."

(3) Notwithstanding subsection (2):

(a) unless the circumstances indicate otherwise, all
implied warranties are excluded by expressions like "as is",
"with all faults" or other language which in common
understanding calls the buyer's attention to the exclusion
of warranties and makes plain that there is no implied
warranty; end

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; ond

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<u>r and</u>

22 [el_in_sales_of_either_botanical_or_yegetative__types
23 of_certified_agricultural_seed_that_bas_been_produced_and
24 certified_pursuant_to_Fitle_80._chapter_5._part_3._there_are
25 no_implied_warranties.as_defined_in_this_chapter.that_the
INTRODUCED_BILL

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<u>seeds_are_free_from_disease*_virusa_or_anv_kind_of</u>
 <u>pathogenic_organises</u>.
 (4) Remedies for breach of warranty can be limited in
 accordance with the provisions of this chapter on
 liquidation or limitation of damages and on contractual
 modification of remedy (30-2-718 and 30-2-719).**

-End-

48th Legislature

HB 0027/02

Approved by Committee on Judiciary As Amenda

1	HOUSE BILL NO. 27
2	INTRODUCED BY KOEHNKE, SALES,
3	ELLERD, LYBECK, CONNELLY

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND MONTANA'S 6 CODIFICATION OF THE UNIFORM COMMERCIAL CODE TO PROVIDE THAT 7 THERE ARE NO IMPLIED WARRANTIES THAT CERTIFIED--AGRICULTURAL 8 SEED FOR PLANTING IS DISEASE FREE; AMENDING SECTION 9 30-2-316, MCA."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 30-2-316, MCA, is amended to read: 12 #30-2-316. Exclusion or modification of warranties. 13 (1) Nords or conduct relevant to the creation of an express 14 warranty and words or conduct tending to negate or limit 15 warranty shall be construed wherever reasonable as 16 consistent with each other; but subject to the provisions of 17 this chapter on parol or extrinsic evidence (30-2-202) 18 19 negation or limitation is inoperative to the extent that such construction is unreasonable. 20

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

25 <u>of-certified-agricvitural-aced that has been produced and</u>

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SECOND READING

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1: servified_purswont_to_Title_SOL_chapter_5: part_3 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
9 liquidation or limitation of damages and on contractual
10 modification of remedy (30-2-718 and 30-2-719).*

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L	HOUSE BILL NO. 27
2	INTRODUCED BY KDEHNKE+ SALES
3	ELLERD, LYBECK, CONNELLY

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND MONTANA'S 6 CODIFICATION OF THE UNIFORM COMMERCIAL CODE TO PROVIDE THAT 7 THERE ARE NO IMPLIED WARRANTIES THAT CERTIFIED--AGRICULTURAL 8 SEED FOR ______PLANTING IS DISEASE FREE; AMENDING SECTION 9 30-2-316, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 30-2-316, MCA, is amended to read: 12 #30-2-316. Exclusion or modification of warranties. 13 (1) Words or conduct relevant to the creation of an express 14 15 warranty and words or conduct tending to negate or limit 16 warranty shall be construed wherever reasonable as 17 consistent with each other; but subject to the provisions of this chapter on parol or extrinsic evidence (30-2-202) 18 negation or limitation is inoperative to the extent that 19 2) 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

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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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6 (a) unless the circumstances indicate otherwise, all 7 implied warranties are excluded by expressions like "as is", 8 "with all faults" or other language which in common 9 understanding calls the buyer's attention to the exclusion 10 of warranties and makes plain that there is no implied 11 warranty; and

12 (b) when the buyer before entering into the contract 13 has examined the goods or the sample or model as fully as he 14 desired or has refused to examine the goods there is no 15 implied warranty with regard to defects which an examination 16 ought in the circumstances to have revealed to him; and

17 (c) an implied warranty can also be excluded or
18 modified by course of dealing or course of performance or
19 usage of trade; and

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

24 (e) in sales of either-botanical-or-vegetative-types

25 <u>of certified agricultural seed that has been produced and</u> THIRD READING

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1 sertified purswont_to_Title_00y_chapter_5x-port_3 ANY_SEED
2 FOR PLANTING (INCLUDING_BOTH_BOTANICAL_AND_VEGETATIVE_TYPES
3 OF_SEED: WHETHER CERTIFIED_OR_NOT): there are no implied
4 warrantles: 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
9 liquidation or limitation of damages and on contractual
10 modification of remedy (30-2-718 and 30-2-719)."

-End-

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HOUSE BILL NO. 27 1 1 writing and conspicuous. Language to exclude all implied 2 INTRODUCED BY KOEHNKE, SALES, warranties of fitness is sufficient if it states, for 2 ELLERD. LYBECK. CONNELLY example, that "There are no warrantles which extend beyond 3 3 4 4 the description on the face hereof." A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND MONTANA'S 5 5 (3) Notwithstanding subsection (2): CODIFICATION OF THE UNIFORM COMMERCIAL CODE TO PROVIDE THAT (a) unless the circumstances indicate otherwise. all 6 6 7 THERE ARE NO IMPLIED WARRANTIES THAT CERTIFIED--AGRICULTURAL 7 implied warranties are excluded by expressions like "as is", SEED FOR PLANTING IS DISEASE FREE; AMENDING SECTION 8 6 "with all faults" or other language which in common q 30-2-316, MCA." 9 understanding calls the buyer's attention to the exclusion 10 10 of warranties and makes plain that there is no implied BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 11 warranty; and 12 Section 1. Section 30-2-316, MCA, is amended to read: 12 (b) when the buyer before entering into the contract 13 #30-2-316, Exclusion or modification of warranties. 13 has examined the goods or the sample or model as fully as he (1) Words or conduct relevant to the creation of an express 14 desired or has refused to examine the goods there is no 14 warranty and words or conduct tending to negate or limit 15 15 implied warranty with regard to defects which an examination warranty shall be construed wherever reasonable as 16 ought in the circumstances to have revealed to him; and 16 consistent with each other; but subject to the provisions of 17 (c) an implied warranty can also be excluded or 17 18 this chapter on parol or extrinsic evidence (30-2-202) 18 modified by course of dealing or course of performance or negation or limitation is inoperative to the extent that 19 usage of trade; and 19 20 such construction is unreasonable. 20 (d) in sales of cattle, hogs, sneep, and or horses, (2) Subject to subsection (3), to exclude or modify 21 21 there are no implied warranties, as defined in this chapter, 22 the implied warranty of merchantability or any part of it 22 that the cattle, hogs, sheep, or horses are free from the language must mention merchantability and in case of a 23 23 sickness or disease:_and 24 writing must be conspicuous, and to exclude or modify any 24 fel_in_sales_of either-batenice}-or-vegetative-types implied warranty of fitness the exclusion must be by a 25 25 <u>of_certificd_ogriculturel_seed_thot_hos_teen__produced__pod</u>

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z	EOR_PLANTING_LINCLUDING_BOIH_BOIANICAL_AND_VEGETATIVEIYPES
3	QESEED*WHEIHERCERIIELEDQ0_NOI!*_there_are_oo_implied
4	warrantless_as_defined_lo_this_chapters_that_theseeds_are
5	freefromdiseasevirusoraovkindofpathogenic
6	organisms.
7	(4) Remedies for breach of warranty can be limited in
8	accordance with the provisions of this chapter on
9	liquidation or limitation of damages and on contractual

10 modification of remedy (30-2-718 and 30-2-719).*

-End-

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