

HOUSE BILL NO. 646

INTRODUCED BY RAPP-SVRCEK, JACOBSON, HAGER, CRIPPEN, BERGENE,
NATHE, ERNST, B. BROWN, CONOVER, MERCER

IN THE HOUSE

| | |
|-------------------|---|
| February 2, 1985 | Introduced and referred to Committee on Business and Labor. Rereferred to Committee on Human Services and Aging. |
| February 14, 1985 | Committee recommend bill do pass. Report adopted. |
| February 15, 1985 | Bill printed and placed on members' desks. |
| February 16, 1985 | Second reading, pass consideration. |
| February 18, 1985 | Motion pass consideration. |
| February 19, 1985 | Second reading, do pass as amended. Correctly engrossed. |
| February 21, 1985 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

| | |
|-------------------|--|
| February 22, 1985 | Introduced and referred to Committee on Public Health, Welfare and Safety. |
| March 19, 1985 | Committee recommend bill be concurrred in. Report adopted. |
| March 22, 1985 | Second reading, concurrred in as amended. |

March 25, 1985

Third reading, concurred in
Ayes, 46; Noes, 3.

Returned to House with
amendments.

IN THE HOUSE

March 26, 1985

Received from Senate.

April 8, 1985

Second reading, amendments
concurred in.

On motion, rules suspended and
bill placed on third reading
this day.

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 646
2 INTRODUCTION BY Larry Smith Jacobson Mayor
3 Berggren NATHE Ernest Bob Brown Conroy Merze Py
4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "ORGANIC FOOD"
5 AND REQUIRING ACCURATE LABELING OF ORGANIC FOOD; PROVIDING
6 FOR REMEDIES; AMENDING SECTIONS 50-31-103 AND 50-31-203,
7 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
8 DATE."
9

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

11 Section 1. Section 50-31-103, MCA, is amended to read:
12 "50-31-103. Definitions. Unless the context requires
13 otherwise, in this chapter the following definitions apply:

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

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

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

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

1 (i) is a dye, pigment, or other substance made by a
2 process of synthesis or similar artifice or extracted,
3 isolated, or otherwise derived, with or without intermediate
4 or final change of identity, from a vegetable, animal,
5 mineral, or other source; or

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

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

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

16 (a) any tobacco or tobacco product;

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

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

1 act;

2 (d) a beverage subject to or complying with packaging

3 or labeling requirements imposed under the Federal Alcohol

4 Administration Act (27 U.S.C., et seq.); or

5 (e) a commodity subject to the Federal Seed Act (7

6 U.S.C. 1551-1610).

7 (6) "Contaminated with filth" applies to a food, drug,

8 device, or cosmetic not securely protected from dust, dirt,

9 and, as far as may be necessary by all reasonable means,

10 from foreign or injurious contaminations.

11 (7) "Cosmetic" means:

12 (a) articles intended to be rubbed, poured, sprinkled,

13 sprayed on, introduced into, or otherwise applied to the

14 human body for cleansing, beautifying, promoting

15 attractiveness, or altering the appearance;

16 (b) articles intended for use as a component of these

17 articles, except that the term does not include soap.

18 (8) "Counterfeit drug" means a drug, drug container,

19 or drug label which, without authorization bears the

20 trademark, trade name, or other identifying mark, imprint,

21 or device or any likeness thereof of a drug manufacturer,

22 processor, packer, or distributor other than the person who

23 in fact manufactured, processed, packed, or distributed the

24 drug and which falsely purports or is represented to be the

25 product of or to have been packed or distributed by the

1 other drug manufacturer, processor, packer, or distributor.

2 (9) "Department" means the department of health and

3 environmental sciences provided for in Title 2, chapter 15,

4 part 21.

5 (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) "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, and
3 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
10 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
11 1260), as amended and extended (21 U.S.C. 71, et seq.).

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

18 (16) "Hamburger" or "ground beef" means ground fresh or
19 frozen beef or a combination of both fresh and frozen beef,
20 with or without the addition of suet, to which no water,
21 binders, or extenders are added. There are three grades of
22 hamburger or ground beef:

23 (a) "economy hamburger" or "economy ground beef" may
24 have a fat content no greater than the federal standard set
25 forth in 9 C.F.R. 319.15;

1 (b) "regular hamburger" or "regular ground beef" may
2 have a fat content no greater than 21%;

3 (c) "extra lean hamburger" or "extra lean ground beef"
4 may have a fat content no greater than 18%.

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

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

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

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

17 (20) "Menu" means any list presented to the patron
18 which states the food items for sale in a food service
19 establishment.

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

- 22 (a) it is not generally recognized, among experts
23 qualified by scientific training and experience to evaluate
24 the safety and effectiveness of drugs, as safe and effective
25 for use under the conditions prescribed, recommended, or

1 suggested in its labeling; or

2 (b) the drug, as a result of investigations to
3 determine its safety and effectiveness for use under the
4 conditions prescribed, has become so recognized but which
5 has not, otherwise than in the investigations, been used to
6 a material extent or for a material time under the
7 conditions prescribed.

8 (22) "Official compendium" means the official United
9 States Pharmacopoeia, official National Formulary, or a
10 supplement to either of these.

11 (23) "Organic food" means food that conforms to the
12 definition in [section 4].

13 ~~(23)~~(24) "Package" means a container or wrapping in
14 which a consumer commodity is enclosed for use in the
15 delivery or display of that consumer commodity to retail
16 purchasers but does not include:

17 (a) shipping containers or wrappings used solely for
18 the transportation of a consumer commodity in bulk or in
19 quantity to manufacturers, packers, or processors or to
20 wholesale or retail distributors;

21 (b) shipping containers or outer wrappings used by
22 retailers to ship or deliver a commodity to retail customers
23 if the containers and wrappings bear no printed matter
24 pertaining to a particular commodity.

25 ~~(24)~~(25) "Person" includes an individual, partnership,

1 corporation, and association.

2 ~~(25)~~(26) "Pesticide chemical" means a substance which
3 alone, in chemical combination, or in formulation with one
4 or more other substances is an "economic poison" under the
5 Federal Insecticide, Fungicide, and Rodenticide Act (7
6 U.S.C., secs. 135-135k), as amended, and which is used in
7 the production, storage, or transportation of raw
8 agricultural commodities.

9 ~~(26)~~(27) "Placard" means any nonpermanent sign used to
10 display or describe food items for sale in a food service
11 establishment or retail establishment.

12 ~~(27)~~(28) "Principal display panel" means that part of a
13 label that is most likely to be displayed, presented, shown,
14 or examined under normal and customary conditions of display
15 for retail sale.

16 (29) "Processing" means cooking, baking, heating,
17 drying, mixing, grinding, churning, separating, extracting,
18 cutting, freezing, or otherwise manufacturing a food or
19 changing the physical characteristics of a food, and the
20 enclosure of such food in a package.

21 ~~(28)~~(30) "Raw agricultural commodity" means food in its
22 raw or natural state, including fruits that are washed,
23 colored, or otherwise treated in their unpeeled natural form
24 prior to marketing.

25 ~~(29)~~(31) "Retail establishment" means a commercial

1 establishment at which meat or meat products are displayed
2 for sale or provision to the public with or without charge.

3 ~~(30)~~(32) "State board" or "board" means the board of
4 health and environmental sciences provided for in 2-15-2104.

5 (33) "Synthetically compounded" means a product
6 formulated by a process that chemically changes a material
7 or substance extracted from naturally occurring plant,
8 animal, or mineral sources, except for microbiological
9 processes."

10 Section 2. Section 50-31-203, MCA, is amended to read:

11 "50-31-203. When food misbranded. A food shall be
12 deemed to be misbranded if:

13 (1) its labeling is false or misleading in any
14 particular;

15 (2) it is offered for sale under the name of another
16 food;

17 (3) it is an imitation of another food for which a
18 definition and standard of identity has been prescribed by
19 regulations as provided by 50-31-201 or if it is an
20 imitation of another food that is not subject to subsection
21 (7) of this section, unless its label bears in type of
22 uniform size and prominence the word imitation and,
23 immediately thereafter, the name of the food imitated;

24 (4) its container is so made, formed, or filled as to
25 be misleading;

1 (5) in package form, unless it bears a label
2 containing:

3 (a) the name and place of business of the
4 manufacturer, packer, or distributor;

5 (b) an accurate statement of the quantity of the
6 contents in terms of weight, measure, or numerical count;
7 provided that reasonable variations shall be permitted and
8 exemptions as to small packages shall be established by
9 regulations prescribed by the department;

10 (6) any word, statement, or other information required
11 by or under authority of this chapter to appear on the label
12 or labeling is not prominently placed thereon with such
13 conspicuousness (as compared with other words, statements,
14 designs, or devices in the labeling) and in such terms as to
15 render it likely to be read and understood by the ordinary
16 individual under customary conditions of purchase and use;

17 (7) it purports to be or is represented as a food for
18 which a definition and standard of identity have been
19 prescribed by regulations as provided by 50-31-201, unless:

20 (a) it conforms to such definition and standard; and

21 (b) its label bears the name of the food specified in
22 the definition and standard and, insofar as may be required
23 by such regulations, the common names of optional
24 ingredients (other than spices, flavoring, and coloring)
25 present in such food;

1 (8) it purports to be or is represented as:

2 (a) a food for which a standard of quality has been
3 prescribed by regulations as provided by 50-31-201 and its
4 quality falls below such standard, unless its label bears,
5 in such manner and form as such regulations specify, a
6 statement that it falls below such standard; or

7 (b) a food for which a standard or standards of fill
8 of container have been prescribed by regulation as provided
9 by 50-31-201 and it falls below the standard of fill of
10 container applicable, unless its label bears, in such manner
11 and form as such regulations specify, a statement that it
12 falls below such standard;

13 (9) it is not subject to the provisions of subsection
14 (7) of this section unless it bears labeling clearly giving:

15 (a) the common or usual name of the food, if any there
16 be; and

17 (b) in case it is fabricated from two or more
18 ingredients, the common or usual name of each such
19 ingredient; except that spices, flavorings, and colorings,
20 other than those sold as such, may be designated as spices,
21 flavorings, and colorings without naming each; provided that
22 to the extent that compliance with the requirements of
23 subsection (9)(b) is impractical or results in deception or
24 unfair competition, exemptions shall be established by
25 regulations promulgated by the department; and provided

1 further that the requirements of subsection (9)(b) shall not
 2 apply to food products which are packaged at the direction
 3 of purchasers at retail at the time of sale, the ingredients
 4 of which are disclosed to the purchasers by other means in
 5 accordance with regulations promulgated by the department;

6 (10) it purports to be or is represented for special
 7 dietary uses, unless its label bears such information
 8 concerning its vitamin, mineral, and other dietary
 9 properties as the department determines to be and by
 10 regulations prescribes as necessary in order to fully inform
 11 purchasers as to its value for such uses;

12 (11) it bears or contains any artificial flavoring,
 13 artificial coloring, or chemical preservative unless it
 14 bears labeling stating that fact; provided that the extent
 15 that compliance with the requirements of this subsection is
 16 impracticable, exemptions shall be established by
 17 regulations promulgated by the department. Butter, cheese,
 18 ice cream, and frozen desserts as defined in 81-22-101 shall
 19 be exempt from label statements for artificial flavoring and
 20 artificial coloring.

21 (12) it is a product intended as an ingredient of
 22 another food and when used according to the directions of
 23 the purveyor will result in the final food product being
 24 adulterated or misbranded;

25 (13) it is a color additive, unless its packaging and

1 labeling are in conformity with such packaging and labeling
 2 requirements applicable to such color additive prescribed
 3 under the provisions of the federal act;

4 (14) it is labeled "organic", "organically grown",
 5 "naturally grown", "ecologically grown", or "biologically
 6 grown" but does not conform to the definition in [section
 7 4]."

8 NEW SECTION. Section 3. Short title. [Sections 3
 9 through 6] may be cited as the "Montana Truth in Labeling
 10 Act for Organic Foods".

11 NEW SECTION. Section 4. Organic food defined. Organic
 12 food is food that:

13 (1) was produced, harvested, cleaned, stored,
 14 distributed, processed, and packaged without application of
 15 synthetically compounded fertilizers, pesticides,
 16 herbicides, fungicides, growth regulators, aromatic
 17 petroleum solvents, diesel and other petroleum fractions, or
 18 other synthetically compounded substances, and without being
 19 preserved by irradiation;

20 (2) was produced, harvested, cleaned, stored,
 21 distributed, processed, and packaged with application of
 22 only microorganisms, microbiological products, and materials
 23 consisting of or derived or extracted solely from plant,
 24 animal, or mineral-bearing rock substances, including but
 25 not limited to Bordeaux mixtures and trace elements, soluble

1 kelp, lime, sulfur, gypsum, dormant oils, summer oils, fish
2 emulsion, soap, green manure, compost, and animal manures,
3 and ascorbic acid, sodium ascorbate, calcium ascorbate, and
4 citric acid used in processing;

5 (3) contains no added coloring or synthetically
6 compounded material;

7 (4) does not contain pesticide residue in excess of
8 10% of the level regarded as safe by the U.S. food and drug
9 administration;

10 (5) in the case of perennial crops, was grown in
11 fields to which no synthetically compounded substances were
12 applied for 24 months before the appearance of flower buds
13 and throughout the entire growing and harvesting season of
14 the crop;

15 (6) in the case of annual crops and 2-year crops, was
16 grown in fields to which no synthetically compounded
17 substances or growth regulators were applied for 24 months
18 before planting or transplanting and throughout the entire
19 growing and harvesting season of the crop;

20 (7) in the case of meat, poultry, or fish, was raised
21 for at least the final 60% of its life:

22 (a) on food produced in conformity with subsection (5)
23 or (6);

24 (b) without the use of any chemical or drug to
25 stimulate or regulate growth or tenderness; and

1 (c) without any drug or antibiotic administered or
2 introduced by injection or ingestion, except for treatment
3 of a specific disease or malady not less than 90 days before
4 the slaughter of such animal, bird, or fish; and

5 (8) in the case of milk or eggs, was produced by
6 animals raised in accordance with subsection (7) except that
7 no chemical, drug, or antibiotic was administered or
8 introduced less than 30 days before the production of such
9 milk or eggs.

10 NEW SECTION. Section 5. Requirements for labeling.

11 (1) No claim or implication may be made in the labeling,
12 advertising, or promotion of raw or processed food products,
13 meat, fish, poultry, milk, eggs, or seeds that the food is
14 organic, organically grown, naturally grown, ecologically
15 grown, or biologically grown unless it conforms to the
16 definition set forth in [section 4].

17 (2) Packaged organic food must be labeled as follows,
18 or with substantially similar language: "ORGANIC FOOD AS
19 DEFINED IN MONTANA LAW ([section 4], MCA)".

20 NEW SECTION. Section 6. Injunctive relief. In
21 addition to the remedies provided in 50-31-509, any person
22 may bring an action in district court pursuant to this
23 section, and the district court has jurisdiction upon
24 hearing and for cause shown to grant a temporary or
25 permanent injunction restraining any person from violating

1 any provision of [section 5]. In addition to the injunctive
2 relief provided by this section, the court shall award
3 attorney fees to the person bringing the action if he
4 prevails.

5 NEW SECTION. Section 7. Codification instruction.
6 Sections 3 through 6 are intended to be codified as an
7 integral part of Title 50, chapter 31, and the provisions of
8 Title 50, chapter 31, parts 1, 2, and 5, except 50-31-506,
9 apply to sections 3 through 6.

10 NEW SECTION. Section 8. Extension of authority. Any
11 existing authority of the department of health and
12 environmental sciences to make rules on the subject of the
13 provisions of this act is extended to the provisions of this
14 act.

15 NEW SECTION. Section 9. Effective date --
16 applicability. This act is effective January 1, 1986, and
17 applies to food products harvested or manufactured on or
18 after January 1, 1986.

-End-

RE-REFERRED AND APPROVED BY COMM. ON HUMAN SERVICES AND AGING

1 HOUSE BILL NO. 646
2 INTRODUCED BY [Signatures]
3 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "ORGANIC FOOD"
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5 FOR REMEDIES; AMENDING SECTIONS 50-31-103 AND 50-31-203,
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10 or hereafter is exempted under the federal act.

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12 specifically provided by this subsection, means any food,
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18 requirements imposed under the Federal Insecticide,
19 Fungicide, and Rodenticide Act or the provisions of the
20 eighth paragraph under the heading "Bureau of Animal
21 Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21
22 U.S.C. 151-157), commonly known as the virus, serum, and
23 toxin act;

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25 50-31-307(1)(c) or section 503(b)(1) or 506 of the federal



1 act;

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3 or labeling requirements imposed under the Federal Alcohol

4 Administration Act (27 U.S.C., et seq.); or

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8 device, or cosmetic not securely protected from dust, dirt,

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17 articles, except that the term does not include soap.

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19 or drug label which, without authorization bears the

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23 in fact manufactured, processed, packed, or distributed the

24 drug and which falsely purports or is represented to be the

25 product of or to have been packed or distributed by the

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7 50-31-501(10)) means instruments, apparatus, and

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9 accessories, intended:

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24 article specified in subsections (a), (b), or (c) but does

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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.

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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
10 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
11 1260), as amended and extended (21 U.S.C. 71, et seq.).

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

18 (16) "Hamburger" or "ground beef" means ground fresh or
19 frozen beef or a combination of both fresh and frozen beef,
20 with or without the addition of suet, to which no water,
21 binders, or extenders are added. There are three grades of
22 hamburger or ground beef:

23 (a) "economy hamburger" or "economy ground beef" may
24 have a fat content no greater than the federal standard set
25 forth in 9 C.F.R. 319.15;

1 (b) "regular hamburger" or "regular ground beef" may
2 have a fat content no greater than 21%;

3 (c) "extra lean hamburger" or "extra lean ground beef"
4 may have a fat content no greater than 18%.

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

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

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

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

17 (20) "Menu" means any list presented to the patron
18 which states the food items for sale in a food service
19 establishment.

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

- 22 (a) it is not generally recognized, among experts
23 qualified by scientific training and experience to evaluate
24 the safety and effectiveness of drugs, as safe and effective
25 for use under the conditions prescribed, recommended, or

1 suggested in its labeling; or

2 (b) the drug, as a result of investigations to
3 determine its safety and effectiveness for use under the
4 conditions prescribed, has become so recognized but which
5 has not, otherwise than in the investigations, been used to
6 a material extent or for a material time under the
7 conditions prescribed.

8 (22) "Official compendium" means the official United
9 States Pharmacopoeia, official National Formulary, or a
10 supplement to either of these.

11 (23) "Organic food" means food that conforms to the
12 definition in [section 4].

13 ~~(23)~~(24) "Package" means a container or wrapping in
14 which a consumer commodity is enclosed for use in the
15 delivery or display of that consumer commodity to retail
16 purchasers but does not include:

17 (a) shipping containers or wrappings used solely for
18 the transportation of a consumer commodity in bulk or in
19 quantity to manufacturers, packers, or processors or to
20 wholesale or retail distributors;

21 (b) shipping containers or outer wrappings used by
22 retailers to ship or deliver a commodity to retail customers
23 if the containers and wrappings bear no printed matter
24 pertaining to a particular commodity.

25 ~~(24)~~(25) "Person" includes an individual, partnership,

1 corporation, and association.

2 ~~(25)~~(26) "Pesticide chemical" means a substance which
3 alone, in chemical combination, or in formulation with one
4 or more other substances is an "economic poison" under the
5 Federal Insecticide, Fungicide, and Rodenticide Act (7
6 U.S.C., secs. 135-135k), as amended, and which is used in
7 the production, storage, or transportation of raw
8 agricultural commodities.

9 ~~(26)~~(27) "Placard" means any nonpermanent sign used to
10 display or describe food items for sale in a food service
11 establishment or retail establishment.

12 ~~(27)~~(28) "Principal display panel" means that part of a
13 label that is most likely to be displayed, presented, shown,
14 or examined under normal and customary conditions of display
15 for retail sale.

16 (29) "Processing" means cooking, baking, heating,
17 drying, mixing, grinding, churning, separating, extracting,
18 cutting, freezing, or otherwise manufacturing a food or
19 changing the physical characteristics of a food, and the
20 enclosure of such food in a package.

21 ~~(28)~~(30) "Raw agricultural commodity" means food in its
22 raw or natural state, including fruits that are washed,
23 colored, or otherwise treated in their unpeeled natural form
24 prior to marketing.

25 ~~(29)~~(31) "Retail establishment" means a commercial

1 establishment at which meat or meat products are displayed
2 for sale or provision to the public with or without charge.

3 ~~(30)~~(32) "State board" or "board" means the board of
4 health and environmental sciences provided for in 2-15-2104.

5 (33) "Synthetically compounded" means a product
6 formulated by a process that chemically changes a material
7 or substance extracted from naturally occurring plant,
8 animal, or mineral sources, except for microbiological
9 processes."

10 Section 2. Section 50-31-203, MCA, is amended to read:

11 "50-31-203. When food misbranded. A food shall be
12 deemed to be misbranded if:

13 (1) its labeling is false or misleading in any
14 particular;

15 (2) it is offered for sale under the name of another
16 food;

17 (3) it is an imitation of another food for which a
18 definition and standard of identity has been prescribed by
19 regulations as provided by 50-31-201 or if it is an
20 imitation of another food that is not subject to subsection
21 (7) of this section, unless its label bears in type of
22 uniform size and prominence the word imitation and,
23 immediately thereafter, the name of the food imitated;

24 (4) its container is so made, formed, or filled as to
25 be misleading;

1 (5) in package form, unless it bears a label
2 containing:

3 (a) the name and place of business of the
4 manufacturer, packer, or distributor;

5 (b) an accurate statement of the quantity of the
6 contents in terms of weight, measure, or numerical count;
7 provided that reasonable variations shall be permitted and
8 exemptions as to small packages shall be established by
9 regulations prescribed by the department;

10 (6) any word, statement, or other information required
11 by or under authority of this chapter to appear on the label
12 or labeling is not prominently placed thereon with such
13 conspicuousness (as compared with other words, statements,
14 designs, or devices in the labeling) and in such terms as to
15 render it likely to be read and understood by the ordinary
16 individual under customary conditions of purchase and use;

17 (7) it purports to be or is represented as a food for
18 which a definition and standard of identity have been
19 prescribed by regulations as provided by 50-31-201, unless:

20 (a) it conforms to such definition and standard; and

21 (b) its label bears the name of the food specified in
22 the definition and standard and, insofar as may be required
23 by such regulations, the common names of optional
24 ingredients (other than spices, flavoring, and coloring)
25 present in such food;

1 (8) it purports to be or is represented as:

2 (a) a food for which a standard of quality has been
3 prescribed by regulations as provided by 50-31-201 and its
4 quality falls below such standard, unless its label bears,
5 in such manner and form as such regulations specify, a
6 statement that it falls below such standard; or

7 (b) a food for which a standard or standards of fill
8 of container have been prescribed by regulation as provided
9 by 50-31-201 and it falls below the standard of fill of
10 container applicable, unless its label bears, in such manner
11 and form as such regulations specify, a statement that it
12 falls below such standard;

13 (9) it is not subject to the provisions of subsection
14 (7) of this section unless it bears labeling clearly giving:

15 (a) the common or usual name of the food, if any there
16 be; and

17 (b) in case it is fabricated from two or more
18 ingredients, the common or usual name of each such
19 ingredient; except that spices, flavorings, and colorings,
20 other than those sold as such, may be designated as spices,
21 flavorings, and colorings without naming each; provided that
22 to the extent that compliance with the requirements of
23 subsection (9)(b) is impractical or results in deception or
24 unfair competition, exemptions shall be established by
25 regulations promulgated by the department; and provided

1 further that the requirements of subsection (9)(b) shall not
2 apply to food products which are packaged at the direction
3 of purchasers at retail at the time of sale, the ingredients
4 of which are disclosed to the purchasers by other means in
5 accordance with regulations promulgated by the department;

6 (10) it purports to be or is represented for special
7 dietary uses, unless its label bears such information
8 concerning its vitamin, mineral, and other dietary
9 properties as the department determines to be and by
10 regulations prescribes as necessary in order to fully inform
11 purchasers as to its value for such uses;

12 (11) it bears or contains any artificial flavoring,
13 artificial coloring, or chemical preservative unless it
14 bears labeling stating that fact; provided that the extent
15 that compliance with the requirements of this subsection is
16 impracticable, exemptions shall be established by
17 regulations promulgated by the department. Butter, cheese,
18 ice cream, and frozen desserts as defined in 81-22-101 shall
19 be exempt from label statements for artificial flavoring and
20 artificial coloring.

21 (12) it is a product intended as an ingredient of
22 another food and when used according to the directions of
23 the purveyor will result in the final food product being
24 adulterated or misbranded;

25 (13) it is a color additive, unless its packaging and

1 labeling are in conformity with such packaging and labeling
2 requirements applicable to such color additive prescribed
3 under the provisions of the federal act;

4 (14) it is labeled "organic", "organically grown",
5 "naturally grown", "ecologically grown", or "biologically
6 grown" but does not conform to the definition in [section
7 4]."

8 NEW SECTION. Section 3. Short title. [Sections 3
9 through 6] may be cited as the "Montana Truth in Labeling
10 Act for Organic Foods".

11 NEW SECTION. Section 4. Organic food defined. Organic
12 food is food that:

13 (1) was produced, harvested, cleaned, stored,
14 distributed, processed, and packaged without application of
15 synthetically compounded fertilizers, pesticides,
16 herbicides, fungicides, growth regulators, aromatic
17 petroleum solvents, diesel and other petroleum fractions, or
18 other synthetically compounded substances, and without being
19 preserved by irradiation;

20 (2) was produced, harvested, cleaned, stored,
21 distributed, processed, and packaged with application of
22 only microorganisms, microbiological products, and materials
23 consisting of or derived or extracted solely from plant,
24 animal, or mineral-bearing rock substances, including but
25 not limited to Bordeaux mixtures and trace elements, soluble

1 kelp, lime, sulfur, gypsum, dormant oils, summer oils, fish
2 emulsion, soap, green manure, compost, and animal manures,
3 and ascorbic acid, sodium ascorbate, calcium ascorbate, and
4 citric acid used in processing;

5 (3) contains no added coloring or synthetically
6 compounded material;

7 (4) does not contain pesticide residue in excess of
8 10% of the level regarded as safe by the U.S. food and drug
9 administration;

10 (5) in the case of perennial crops, was grown in
11 fields to which no synthetically compounded substances were
12 applied for 24 months before the appearance of flower buds
13 and throughout the entire growing and harvesting season of
14 the crop;

15 (6) in the case of annual crops and 2-year crops, was
16 grown in fields to which no synthetically compounded
17 substances or growth regulators were applied for 24 months
18 before planting or transplanting and throughout the entire
19 growing and harvesting season of the crop;

20 (7) in the case of meat, poultry, or fish, was raised
21 for at least the final 60% of its life:

22 (a) on food produced in conformity with subsection (5)
23 or (6);

24 (b) without the use of any chemical or drug to
25 stimulate or regulate growth or tenderness; and

1 (c) without any drug or antibiotic administered or
2 introduced by injection or ingestion, except for treatment
3 of a specific disease or malady not less than 90 days before
4 the slaughter of such animal, bird, or fish; and

5 (8) in the case of milk or eggs, was produced by
6 animals raised in accordance with subsection (7) except that
7 no chemical, drug, or antibiotic was administered or
8 introduced less than 30 days before the production of such
9 milk or eggs.

10 NEW SECTION. Section 5. Requirements for labeling.

11 (1) No claim or implication may be made in the labeling,
12 advertising, or promotion of raw or processed food products,
13 meat, fish, poultry, milk, eggs, or seeds that the food is
14 organic, organically grown, naturally grown, ecologically
15 grown, or biologically grown unless it conforms to the
16 definition set forth in [section 4].

17 (2) Packaged organic food must be labeled as follows,
18 or with substantially similar language: "ORGANIC FOOD AS
19 DEFINED IN MONTANA LAW ([section 4], MCA)".

20 NEW SECTION. Section 6. Injunctive relief. In
21 addition to the remedies provided in 50-31-509, any person
22 may bring an action in district court pursuant to this
23 section, and the district court has jurisdiction upon
24 hearing and for cause shown to grant a temporary or
25 permanent injunction restraining any person from violating

1 any provision of [section 5]. In addition to the injunctive
2 relief provided by this section, the court shall award
3 attorney fees to the person bringing the action if he
4 prevails.

5 NEW SECTION. Section 7. Codification instruction.
6 Sections 3 through 6 are intended to be codified as an
7 integral part of Title 50, chapter 31, and the provisions of
8 Title 50, chapter 31, parts 1, 2, and 5, except 50-31-506,
9 apply to sections 3 through 6.

10 NEW SECTION. Section 8. Extension of authority. Any
11 existing authority of the department of health and
12 environmental sciences to make rules on the subject of the
13 provisions of this act is extended to the provisions of this
14 act.

15 NEW SECTION. Section 9. Effective date --
16 applicability. This act is effective January 1, 1986, and
17 applies to food products harvested or manufactured on or
18 after January 1, 1986.

-End-

1 HOUSE BILL NO. 646

2 INTRODUCED BY RAPP-SVRCEK, JACOBSON,
3 HAGER, CRIPPEN, BERGENE, NATHE,
4 ERNST, B. BROWN, CONOVER, MERCER
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "ORGANIC FOOD"
7 AND REQUIRING ACCURATE LABELING OF ORGANIC FOOD; PROVIDING
8 FOR REMEDIES; AMENDING SECTIONS 50-31-103 AND 50-31-203,
9 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
10 DATE."
11

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

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

14 "50-31-103. Definitions. Unless the context requires
15 otherwise, in this chapter the following definitions apply:

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

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

25 (3) "Color" includes black, white, and intermediate

1 grays.

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

3 (i) is a dye, pigment, or other substance made by a
4 process of synthesis or similar artifice or extracted,
5 isolated, or otherwise derived, with or without intermediate
6 or final change of identity, from a vegetable, animal,
7 mineral, or other source; or

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

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

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

18 (a) any tobacco or tobacco product;

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

1 (c) a drug subject to 50-31-306(1)(m) or
2 50-31-307(1)(c) or section 503(b)(1) or 506 of the federal
3 act;

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

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

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

13 (7) "Cosmetic" means:

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

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

20 (B) "Counterfeit drug" means a drug, drug container,
21 or drug label which, without authorization bears the
22 trademark, trade name, or other identifying mark, imprint,
23 or device or any likeness thereof of a drug manufacturer,
24 processor, packer, or distributor other than the person who
25 in fact manufactured, processed, packed, or distributed the

1 drug and which falsely purports or is represented to be the
2 product of or to have been packed or distributed by the
3 other drug manufacturer, processor, packer, or distributor.

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

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

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

14 (b) to affect the structure or function of the body of
15 man or other animals.

16 (11) "Drug" means:

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

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

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

25 (d) articles intended for use as components of any

1 article specified in subsections (a), (b), or (c) but does
2 not include devices or their components, parts, or
3 accessories.

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

6 (13) "Food" means:

7 (a) articles used for food or drink for man or other
8 animals;

9 (b) chewing gum; and

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

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

1 (b) This term does not include:

2 (i) a pesticide chemical in or on a raw agricultural
3 commodity;

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

7 (iii) color additive;

8 (iv) substance used in accordance with a sanction or
9 approval granted prior to the enactment of the Food
10 Additives Amendment of 1958, pursuant to the federal act,
11 the Poultry Products Inspection Act (21 U.S.C. 451, et
12 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
13 1260), as amended and extended (21 U.S.C. 71, et seq.).

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

20 (16) "Hamburger" or "ground beef" means ground fresh or
21 frozen beef or a combination of both fresh and frozen beef,
22 with or without the addition of suet, to which no water,
23 binders, or extenders are added. There are three grades of
24 hamburger or ground beef:

25 (a) "economy hamburger" or "economy ground beef" may

1 have a fat content no greater than the federal standard set
2 forth in 9 C.F.R. 319.15;

3 (b) "regular hamburger" or "regular ground beef" may
4 have a fat content no greater than 21%;

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

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

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

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16 printed, or graphic matter:

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23 is such that:

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25 qualified by scientific training and experience to evaluate

1 the safety and effectiveness of drugs, as safe and effective
2 for use under the conditions prescribed, recommended, or
3 suggested in its labeling; or

4 (b) the drug, as a result of investigations to
5 determine its safety and effectiveness for use under the
6 conditions prescribed, has become so recognized but which
7 has not, otherwise than in the investigations, been used to
8 a material extent or for a material time under the
9 conditions prescribed.

10 (22) "Official compendium" means the official United
11 States Pharmacopoeia, official National Formulary, or a
12 supplement to either of these.

13 (23) "Organic food" means food that conforms to the
14 definition in [section 4].

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16 which a consumer commodity is enclosed for use in the
17 delivery or display of that consumer commodity to retail
18 purchasers but does not include:

19 (a) shipping containers or wrappings used solely for
20 the transportation of a consumer commodity in bulk or in
21 quantity to manufacturers, packers, or processors or to
22 wholesale or retail distributors;

23 (b) shipping containers or outer wrappings used by
24 retailers to ship or deliver a commodity to retail customers
25 if the containers and wrappings bear no printed matter

1 pertaining to a particular commodity.

2 ~~(24)~~(25) "Person" includes an individual, partnership,
3 corporation, and association.

4 ~~(25)~~(26) "Pesticide chemical" means a substance which
5 alone, in chemical combination, or in formulation with one
6 or more other substances is an "economic poison" under the
7 Federal Insecticide, Fungicide, and Rodenticide Act (7
8 U.S.C., secs. 135-135k), as amended, and which is used in
9 the production, storage, or transportation of raw
10 agricultural commodities.

11 ~~(26)~~(27) "Placard" means any nonpermanent sign used to
12 display or describe food items for sale in a food service
13 establishment or retail establishment.

14 ~~(27)~~(28) "Principal display panel" means that part of a
15 label that is most likely to be displayed, presented, shown,
16 or examined under normal and customary conditions of display
17 for retail sale.

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19 drying, mixing, grinding, churning, separating, extracting,
20 cutting, freezing, or otherwise manufacturing a food or
21 changing the physical characteristics of a food, and the
22 enclosure of such food in a package.

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24 raw or natural state, including fruits that are washed,
25 colored, or otherwise treated in their unpeeled natural form

1 prior to marketing.

2 ~~(29)~~(31) "Retail establishment" means a commercial
3 establishment at which meat or meat products are displayed
4 for sale or provision to the public with or without charge.

5 ~~(30)~~(32) "State board" or "board" means the board of
6 health and environmental sciences provided for in 2-15-2104.

7 (33) "Synthetically compounded" means a product
8 formulated by a process that chemically changes a material
9 or substance extracted from naturally occurring plant,
10 animal, or mineral sources, except for microbiological
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14 deemed to be misbranded if:

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16 particular;

17 (2) it is offered for sale under the name of another
18 food;

19 (3) it is an imitation of another food for which a
20 definition and standard of identity has been prescribed by
21 regulations as provided by 50-31-201 or if it is an
22 imitation of another food that is not subject to subsection
23 (7) of this section, unless its label bears in type of
24 uniform size and prominence the word imitation and,
25 immediately thereafter, the name of the food imitated;

1 (4) its container is so made, formed, or filled as to
2 be misleading;

3 (5) in package form, unless it bears a label
4 containing:

5 (a) the name and place of business of the
6 manufacturer, packer, or distributor;

7 (b) an accurate statement of the quantity of the
8 contents in terms of weight, measure, or numerical count;
9 provided that reasonable variations shall be permitted and
10 exemptions as to small packages shall be established by
11 regulations prescribed by the department;

12 (6) any word, statement, or other information required
13 by or under authority of this chapter to appear on the label
14 or labeling is not prominently placed thereon with such
15 conspicuousness (as compared with other words, statements,
16 designs, or devices in the labeling) and in such terms as to
17 render it likely to be read and understood by the ordinary
18 individual under customary conditions of purchase and use;

19 (7) it purports to be or is represented as a food for
20 which a definition and standard of identity have been
21 prescribed by regulations as provided by 50-31-201, unless:

22 (a) it conforms to such definition and standard; and

23 (b) its label bears the name of the food specified in
24 the definition and standard and, insofar as may be required
25 by such regulations, the common names of optional

1 ingredients (other than spices, flavoring, and coloring)
2 present in such food;

3 (8) it purports to be or is represented as:

4 (a) a food for which a standard of quality has been
5 prescribed by regulations as provided by 50-31-201 and its
6 quality falls below such standard, unless its label bears,
7 in such manner and form as such regulations specify, a
8 statement that it falls below such standard; or

9 (b) a food for which a standard or standards of fill
10 of container have been prescribed by regulation as provided
11 by 50-31-201 and it falls below the standard of fill of
12 container applicable, unless its label bears, in such manner
13 and form as such regulations specify, a statement that it
14 falls below such standard;

15 (9) it is not subject to the provisions of subsection
16 (7) of this section unless it bears labeling clearly giving:

17 (a) the common or usual name of the food, if any there
18 be; and

19 (b) in case it is fabricated from two or more
20 ingredients, the common or usual name of each such
21 ingredient; except that spices, flavorings, and colorings,
22 other than those sold as such, may be designated as spices,
23 flavorings, and colorings without naming each; provided that
24 to the extent that compliance with the requirements of
25 subsection (9)(b) is impractical or results in deception or

1 unfair competition, exemptions shall be established by
 2 regulations promulgated by the department; and provided
 3 further that the requirements of subsection (9)(b) shall not
 4 apply to food products which are packaged at the direction
 5 of purchasers at retail at the time of sale, the ingredients
 6 of which are disclosed to the purchasers by other means in
 7 accordance with regulations promulgated by the department;

8 (10) it purports to be or is represented for special
 9 dietary uses, unless its label bears such information
 10 concerning its vitamin, mineral, and other dietary
 11 properties as the department determines to be and by
 12 regulations prescribes as necessary in order to fully inform
 13 purchasers as to its value for such uses;

14 (11) it bears or contains any artificial flavoring,
 15 artificial coloring, or chemical preservative unless it
 16 bears labeling stating that fact; provided that the extent
 17 that compliance with the requirements of this subsection is
 18 impracticable, exemptions shall be established by
 19 regulations promulgated by the department. Butter, cheese,
 20 ice cream, and frozen desserts as defined in 81-22-101 shall
 21 be exempt from label statements for artificial flavoring and
 22 artificial coloring.

23 (12) it is a product intended as an ingredient of
 24 another food and when used according to the directions of
 25 the purveyor will result in the final food product being

1 adulterated or misbranded;

2 (13) it is a color additive, unless its packaging and
 3 labeling are in conformity with such packaging and labeling
 4 requirements applicable to such color additive prescribed
 5 under the provisions of the federal act;

6 (14) it is labeled "organic", "organically grown",
 7 "naturally grown", "ecologically grown", or "biologically
 8 grown" but does not conform to the definition in [section
 9 4]."

10 NEW SECTION. Section 3. Short title. [Sections 3
 11 through 6] may be cited as the "Montana Truth in Labeling
 12 Act for Organic Foods".

13 NEW SECTION. Section 4. Organic food defined. Organic
 14 food is food that:

15 (1) was produced, harvested, cleaned, stored,
 16 distributed, processed, and packaged without application of
 17 synthetically compounded fertilizers, pesticides,
 18 herbicides, fungicides, growth regulators, aromatic
 19 petroleum solvents, diesel and other petroleum fractions, or
 20 other synthetically compounded substances, and without being
 21 preserved by irradiation;

22 (2) was produced, harvested, cleaned, stored,
 23 distributed, processed, and packaged with application of
 24 only microorganisms, microbiological products, and materials
 25 consisting of or derived or extracted solely from plant,

1 animal, or mineral-bearing rock substances, including but
 2 not limited to Bordeaux mixtures and trace elements, soluble
 3 kelp, lime, sulfur, gypsum, dormant oils, summer oils, fish
 4 emulsion, soap, green manure, compost, and animal manures,
 5 and ascorbic acid, sodium ascorbate, calcium ascorbate, and
 6 citric acid used in processing;

7 (3) contains no added coloring or synthetically
 8 compounded material;

9 (4) does not contain pesticide residue in excess of
 10 10% of the level regarded as safe by the U.S. food and drug
 11 administration;

12 (5) in the case of perennial crops, was grown in
 13 fields to which no synthetically compounded substances were
 14 applied for 24 months before the appearance of flower buds
 15 and throughout the entire growing and harvesting season of
 16 the crop;

17 (6) in the case of annual crops and 2-year crops, was
 18 grown in fields to which no synthetically compounded
 19 substances or growth regulators were applied for 24 months
 20 before planting or transplanting and throughout the entire
 21 growing and harvesting season of the crop;

22 (7) in the case of meat, poultry, or fish, was raised
 23 for at least the final 60% of its life:

24 (a) on food produced in conformity with subsection (5)
 25 or (6);

1 (b) without the use of any chemical or drug to
 2 stimulate or regulate growth or tenderness; and

3 (c) without any drug or antibiotic administered or
 4 introduced by injection or ingestion, except for treatment
 5 of a specific disease or malady not less than 90 days before
 6 the slaughter of such animal, bird, or fish; and

7 (8) in the case of milk or eggs, was produced by
 8 animals raised in accordance with subsection (7) except that
 9 no chemical, drug, or antibiotic was administered or
 10 introduced less than 30 days before the production of such
 11 milk or eggs.

12 NEW SECTION. Section 5. Requirements for labeling.

13 (1) No claim or implication may be made in the labeling,
 14 advertising, or promotion of raw or processed food products,
 15 meat, fish, poultry, milk, eggs, or seeds that the food is
 16 organic, organically grown, naturally grown, ecologically
 17 grown, or biologically grown unless it conforms to the
 18 definition set forth in [section 4].

19 (2) Packaged organic food must be labeled as follows,
 20 or with substantially similar language: "ORGANIC FOOD AS
 21 DEFINED IN MONTANA LAW ([section 4], MCA)".

22 NEW SECTION. Section 6. Injunctive relief. (1) In
 23 addition to the remedies provided in 50-31-509, any person
 24 may bring an action in district court pursuant to this
 25 section, and the district court has jurisdiction upon

1 hearing and for cause shown to grant a temporary or
 2 permanent injunction restraining any person from violating
 3 any provision of [section 5]. In addition to the injunctive
 4 relief provided by this section, the court shall award
 5 attorney fees to the person bringing the action if he
 6 prevails.

7 (2) THE PROHIBITION PROVIDED IN [SECTION 5] DOES NOT
 8 APPLY TO ANY WHOLESALE OR RETAIL DISTRIBUTOR WHO IN GOOD
 9 FAITH MAKES THE SAME REPRESENTATIONS ON A PACKAGE OR LABEL
 10 OR IN ADVERTISING OR PROMOTION AS HAVE BEEN MADE BY THE
 11 MANUFACTURER, DISTRIBUTOR, OR OTHER PERSON PROVIDING THE
 12 FOOD TO THAT WHOLESALE OR RETAIL DISTRIBUTOR.

13 NEW SECTION. Section 7. Codification instruction.
 14 Sections 3 through 6 are intended to be codified as an
 15 integral part of Title 50, chapter 31, and the provisions of
 16 Title 50, chapter 31, parts 1, 2, and 5, except 50-31-506,
 17 apply to sections 3 through 6.

18 NEW SECTION. Section 8. Extension of authority. Any
 19 existing authority of the department of health and
 20 environmental sciences to make rules on the subject of the
 21 provisions of this act is extended to the provisions of this
 22 act.

23 NEW SECTION. Section 9. Effective date --
 24 applicability. This act is effective January 1, 1986, and
 25 applies to food products harvested or manufactured on or

1 after January 1, 1986.

-End-

COMMITTEE OF THE WHOLE AMENDMENT

SENATE

MAR 22, 1985

DATE

2:30

TIME

MR. CHAIRMAN: I MOVE TO AMEND HOUSE BILL No. 646

third reading copy (blue) as follows:
Color

- 1. Page 17, lines 3 and 4.
Following: "5]." on line 3
Strike: remainder of line 3 through "the" on line 4
Insert: "The"
- 2. Page 17, line 4.
Following: "court"
Strike: "shall"
Insert: "may"
- 3. Page 17, lines 5 and 6.
Following: "to the" on line 5
Strike: remainder of line 5 through "prevails" on line 6
Insert: "prevailing party in the action"

PC

PC3HB646.621

ADOPT
REJECT

Side Story
STORY

1 HOUSE BILL NO. 646

2 INTRODUCED BY RAPP-SVRCEK, JACOBSON,

3 HAGER, CRIPPEN, BERGENE, NATHE,

4 ERNST, B. BROWN, CONOVER, MERCER

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "ORGANIC FOOD"
7 AND REQUIRING ACCURATE LABELING OF ORGANIC FOOD; PROVIDING
8 FOR REMEDIES; AMENDING SECTIONS 50-31-103 AND 50-31-203,
9 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
10 DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

14 "50-31-103. Definitions. Unless the context requires
15 otherwise, in this chapter the following definitions apply:

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

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

25 (3) "Color" includes black, white, and intermediate

1 grays.

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

3 (i) is a dye, pigment, or other substance made by a
4 process of synthesis or similar artifice or extracted,
5 isolated, or otherwise derived, with or without intermediate
6 or final change of identity, from a vegetable, animal,
7 mineral, or other source; or

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

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

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

18 (a) any tobacco or tobacco product;

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

1 (c) a drug subject to 50-31-306(1)(m) or
 2 50-31-307(1)(c) or section 503(b)(1) or 506 of the federal
 3 act;

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

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

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

13 (7) "Cosmetic" means:

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

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

20 (8) "Counterfeit drug" means a drug, drug container,
 21 or drug label which, without authorization bears the
 22 trademark, trade name, or other identifying mark, imprint,
 23 or device or any likeness thereof of a drug manufacturer,
 24 processor, packer, or distributor other than the person who
 25 in fact manufactured, processed, packed, or distributed the

1 drug and which falsely purports or is represented to be the
 2 product of or to have been packed or distributed by the
 3 other drug manufacturer, processor, packer, or distributor.

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

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

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

14 (b) to affect the structure or function of the body of
 15 man or other animals.

16 (11) "Drug" means:

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

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

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

25 (d) articles intended for use as components of any

1 article specified in subsections (a), (b), or (c) but does
2 not include devices or their components, parts, or
3 accessories.

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

6 (13) "Food" means:

7 (a) articles used for food or drink for man or other
8 animals;

9 (b) chewing gum; and

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

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

1 (b) This term does not include:

2 (i) a pesticide chemical in or on a raw agricultural
3 commodity;

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

7 (iii) color additive;

8 (iv) substance used in accordance with a sanction or
9 approval granted prior to the enactment of the Food
10 Additives Amendment of 1958, pursuant to the federal act,
11 the Poultry Products Inspection Act (21 U.S.C. 451, et
12 seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat.
13 1260), as amended and extended (21 U.S.C. 71, et seq.).

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

20 (16) "Hamburger" or "ground beef" means ground fresh or
21 frozen beef or a combination of both fresh and frozen beef,
22 with or without the addition of suet, to which no water,
23 binders, or extenders are added. There are three grades of
24 hamburger or ground beef:

25 (a) "economy hamburger" or "economy ground beef" may

1 have a fat content no greater than the federal standard set
2 forth in 9 C.F.R. 319.15;

3 (b) "regular hamburger" or "regular ground beef" may
4 have a fat content no greater than 21%;

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

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

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

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

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

18 (b) accompanying the article.

19 (20) "Menu" means any list presented to the patron
20 which states the food items for sale in a food service
21 establishment.

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

24 (a) it is not generally recognized, among experts
25 qualified by scientific training and experience to evaluate

1 the safety and effectiveness of drugs, as safe and effective
2 for use under the conditions prescribed, recommended, or
3 suggested in its labeling; or

4 (b) the drug, as a result of investigations to
5 determine its safety and effectiveness for use under the
6 conditions prescribed, has become so recognized but which
7 has not, otherwise than in the investigations, been used to
8 a material extent or for a material time under the
9 conditions prescribed.

10 (22) "Official compendium" means the official United
11 States Pharmacopoeia, official National Formulary, or a
12 supplement to either of these.

13 (23) "Organic food" means food that conforms to the
14 definition in [section 4].

15 ~~(23)~~ (24) "Package" means a container or wrapping in
16 which a consumer commodity is enclosed for use in the
17 delivery or display of that consumer commodity to retail
18 purchasers but does not include:

19 (a) shipping containers or wrappings used solely for
20 the transportation of a consumer commodity in bulk or in
21 quantity to manufacturers, packers, or processors or to
22 wholesale or retail distributors;

23 (b) shipping containers or outer wrappings used by
24 retailers to ship or deliver a commodity to retail customers
25 if the containers and wrappings bear no printed matter

1 pertaining to a particular commodity.

2 ~~(24)~~(25) "Person" includes an individual, partnership,
3 corporation, and association.

4 ~~(25)~~(26) "Pesticide chemical" means a substance which
5 alone, in chemical combination, or in formulation with one
6 or more other substances is an "economic poison" under the
7 Federal Insecticide, Fungicide, and Rodenticide Act (7
8 U.S.C., secs. 135-135k), as amended, and which is used in
9 the production, storage, or transportation of raw
10 agricultural commodities.

11 ~~(26)~~(27) "Placard" means any nonpermanent sign used to
12 display or describe food items for sale in a food service
13 establishment or retail establishment.

14 ~~(27)~~(28) "Principal display panel" means that part of a
15 label that is most likely to be displayed, presented, shown,
16 or examined under normal and customary conditions of display
17 for retail sale.

18 (29) "Processing" means cooking, baking, heating,
19 drying, mixing, grinding, churning, separating, extracting,
20 cutting, freezing, or otherwise manufacturing a food or
21 changing the physical characteristics of a food, and the
22 enclosure of such food in a package.

23 ~~(28)~~(30) "Raw agricultural commodity" means food in its
24 raw or natural state, including fruits that are washed,
25 colored, or otherwise treated in their unpeeled natural form

1 prior to marketing.

2 ~~(29)~~(31) "Retail establishment" means a commercial
3 establishment at which meat or meat products are displayed
4 for sale or provision to the public with or without charge.

5 ~~(30)~~(32) "State board" or "board" means the board of
6 health and environmental sciences provided for in 2-15-2104.

7 (33) "Synthetically compounded" means a product
8 formulated by a process that chemically changes a material
9 or substance extracted from naturally occurring plant,
10 animal, or mineral sources, except for microbiological
11 processes."

12 Section 2. Section 50-31-203, MCA, is amended to read:

13 "50-31-203. When food misbranded. A food shall be
14 deemed to be misbranded if:

15 (1) its labeling is false or misleading in any
16 particular;

17 (2) it is offered for sale under the name of another
18 food;

19 (3) it is an imitation of another food for which a
20 definition and standard of identity has been prescribed by
21 regulations as provided by 50-31-201 or if it is an
22 imitation of another food that is not subject to subsection
23 (7) of this section, unless its label bears in type of
24 uniform size and prominence the word imitation and,
25 immediately thereafter, the name of the food imitated;

1 (4) its container is so made, formed, or filled as to
2 be misleading;

3 (5) in package form, unless it bears a label
4 containing:

5 (a) the name and place of business of the
6 manufacturer, packer, or distributor;

7 (b) an accurate statement of the quantity of the
8 contents in terms of weight, measure, or numerical count;
9 provided that reasonable variations shall be permitted and
10 exemptions as to small packages shall be established by
11 regulations prescribed by the department;

12 (6) any word, statement, or other information required
13 by or under authority of this chapter to appear on the label
14 or labeling is not prominently placed thereon with such
15 conspicuousness (as compared with other words, statements,
16 designs, or devices in the labeling) and in such terms as to
17 render it likely to be read and understood by the ordinary
18 individual under customary conditions of purchase and use;

19 (7) it purports to be or is represented as a food for
20 which a definition and standard of identity have been
21 prescribed by regulations as provided by 50-31-201, unless:

22 (a) it conforms to such definition and standard; and

23 (b) its label bears the name of the food specified in
24 the definition and standard and, insofar as may be required
25 by such regulations, the common names of optional

1 ingredients (other than spices, flavoring, and coloring)
2 present in such food;

3 (8) it purports to be or is represented as:

4 (a) a food for which a standard of quality has been
5 prescribed by regulations as provided by 50-31-201 and its
6 quality falls below such standard, unless its label bears,
7 in such manner and form as such regulations specify, a
8 statement that it falls below such standard; or

9 (b) a food for which a standard or standards of fill
10 of container have been prescribed by regulation as provided
11 by 50-31-201 and it falls below the standard of fill of
12 container applicable, unless its label bears, in such manner
13 and form as such regulations specify, a statement that it
14 falls below such standard;

15 (9) it is not subject to the provisions of subsection
16 (7) of this section unless it bears labeling clearly giving:

17 (a) the common or usual name of the food, if any there
18 be; and

19 (b) in case it is fabricated from two or more
20 ingredients, the common or usual name of each such
21 ingredient; except that spices, flavorings, and colorings,
22 other than those sold as such, may be designated as spices,
23 flavorings, and colorings without naming each; provided that
24 to the extent that compliance with the requirements of
25 subsection (9)(b) is impractical or results in deception or

1 unfair competition, exemptions shall be established by
 2 regulations promulgated by the department; and provided
 3 further that the requirements of subsection (9)(b) shall not
 4 apply to food products which are packaged at the direction
 5 of purchasers at retail at the time of sale, the ingredients
 6 of which are disclosed to the purchasers by other means in
 7 accordance with regulations promulgated by the department;

8 (10) it purports to be or is represented for special
 9 dietary uses, unless its label bears such information
 10 concerning its vitamin, mineral, and other dietary
 11 properties as the department determines to be and by
 12 regulations prescribes as necessary in order to fully inform
 13 purchasers as to its value for such uses;

14 (11) it bears or contains any artificial flavoring,
 15 artificial coloring, or chemical preservative unless it
 16 bears labeling stating that fact; provided that the extent
 17 that compliance with the requirements of this subsection is
 18 impracticable, exemptions shall be established by
 19 regulations promulgated by the department. Butter, cheese,
 20 ice cream, and frozen desserts as defined in 81-22-101 shall
 21 be exempt from label statements for artificial flavoring and
 22 artificial coloring.

23 (12) it is a product intended as an ingredient of
 24 another food and when used according to the directions of
 25 the purveyor will result in the final food product being

1 adulterated or misbranded;

2 (13) it is a color additive, unless its packaging and
 3 labeling are in conformity with such packaging and labeling
 4 requirements applicable to such color additive prescribed
 5 under the provisions of the federal act;

6 (14) it is labeled "organic", "organically grown",
 7 "naturally grown", "ecologically grown", or "biologically
 8 grown" but does not conform to the definition in [section
 9 4]."

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 11 through 6] may be cited as the "Montana Truth in Labeling
 12 Act for Organic Foods".

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 14 food is food that:

15 (1) was produced, harvested, cleaned, stored,
 16 distributed, processed, and packaged without application of
 17 synthetically compounded fertilizers, pesticides,
 18 herbicides, fungicides, growth regulators, aromatic
 19 petroleum solvents, diesel and other petroleum fractions, or
 20 other synthetically compounded substances, and without being
 21 preserved by irradiation;

22 (2) was produced, harvested, cleaned, stored,
 23 distributed, processed, and packaged with application of
 24 only microorganisms, microbiological products, and materials
 25 consisting of or derived or extracted solely from plant,

1 animal, or mineral-bearing rock substances, including but
 2 not limited to Bordeaux mixtures and trace elements, soluble
 3 kelp, lime, sulfur, gypsum, dormant oils, summer oils, fish
 4 emulsion, soap, green manure, compost, and animal manures,
 5 and ascorbic acid, sodium ascorbate, calcium ascorbate, and
 6 citric acid used in processing;

7 (3) contains no added coloring or synthetically
 8 compounded material;

9 (4) does not contain pesticide residue in excess of
 10 10% of the level regarded as safe by the U.S. food and drug
 11 administration;

12 (5) in the case of perennial crops, was grown in
 13 fields to which no synthetically compounded substances were
 14 applied for 24 months before the appearance of flower buds
 15 and throughout the entire growing and harvesting season of
 16 the crop;

17 (6) in the case of annual crops and 2-year crops, was
 18 grown in fields to which no synthetically compounded
 19 substances or growth regulators were applied for 24 months
 20 before planting or transplanting and throughout the entire
 21 growing and harvesting season of the crop;

22 (7) in the case of meat, poultry, or fish, was raised
 23 for at least the final 60% of its life:

24 (a) on food produced in conformity with subsection (5)
 25 or (6);

1 (b) without the use of any chemical or drug to
 2 stimulate or regulate growth or tenderness; and

3 (c) without any drug or antibiotic administered or
 4 introduced by injection or ingestion, except for treatment
 5 of a specific disease or malady not less than 90 days before
 6 the slaughter of such animal, bird, or fish; and

7 (8) in the case of milk or eggs, was produced by
 8 animals raised in accordance with subsection (7) except that
 9 no chemical, drug, or antibiotic was administered or
 10 introduced less than 30 days before the production of such
 11 milk or eggs.

12 NEW SECTION. Section 5. Requirements for labeling.

13 (1) No claim or implication may be made in the labeling,
 14 advertising, or promotion of raw or processed food products,
 15 meat, fish, poultry, milk, eggs, or seeds that the food is
 16 organic, organically grown, naturally grown, ecologically
 17 grown, or biologically grown unless it conforms to the
 18 definition set forth in [section 4].

19 (2) Packaged organic food must be labeled as follows,
 20 or with substantially similar language: "ORGANIC FOOD AS
 21 DEFINED IN MONTANA LAW ([section 4], MCA)".

22 NEW SECTION. Section 6. Injunctive relief. (1) In
 23 addition to the remedies provided in 50-31-509, any person
 24 may bring an action in district court pursuant to this
 25 section, and the district court has jurisdiction upon

1 after January 1, 1986.

-End-

1 hearing and for cause shown to grant a temporary or
 2 permanent injunction restraining any person from violating
 3 any provision of [section 5]. ~~In-addition-to-the-injunctive~~
 4 ~~relief-provided-by-this-section,~~ the THE court shall MAY
 5 award attorney fees to the ~~person-bringing-the-action-if-he~~
 6 ~~prevails~~ PREVAILING PARTY IN THE ACTION.

7 (2) THE PROHIBITION PROVIDED IN [SECTION 5] DOES NOT
 8 APPLY TO ANY WHOLESALE OR RETAIL DISTRIBUTOR WHO IN GOOD
 9 FAITH MAKES THE SAME REPRESENTATIONS ON A PACKAGE OR LABEL
 10 OR IN ADVERTISING OR PROMOTION AS HAVE BEEN MADE BY THE
 11 MANUFACTURER, DISTRIBUTOR, OR OTHER PERSON PROVIDING THE
 12 FOOD TO THAT WHOLESALE OR RETAIL DISTRIBUTOR.

13 NEW SECTION. Section 7. Codification instruction.
 14 Sections 3 through 6 are intended to be codified as an
 15 integral part of Title 50, chapter 31, and the provisions of
 16 Title 50, chapter 31, parts 1, 2, and 5, except 50-31-506,
 17 apply to sections 3 through 6.

18 NEW SECTION. Section 8. Extension of authority. Any
 19 existing authority of the department of health and
 20 environmental sciences to make rules on the subject of the
 21 provisions of this act is extended to the provisions of this
 22 act.

23 NEW SECTION. Section 9. Effective date --
 24 applicability. This act is effective January 1, 1986, and
 25 applies to food products harvested or manufactured on or