

2005 Montana Legislature



HOUSE BILL NO. 406

INTRODUCED BY BERGREN, TESTER, PARKER, BLACK, LENHART, DOWELL, BECKER, KITZENBERG, GALVIN-HALCRO, HARRINGTON, KLOCK, KEANE, ROUSH, WANZENRIED, STAHL, MUSGROVE, WINDHAM, CALLAHAN, WISEMAN, WILSON, WINDY BOY, JACOBSON, MCALPIN, W. JONES, HANSEN

BY REQUEST OF THE GOVERNOR

AN ACT ADOPTING THE COUNTRY OF ORIGIN PLACARDING ACT; REQUIRING A COUNTRY OF ORIGIN PLACARD ON SPECIFIC COMMODITIES OFFERED FOR SALE IN MONTANA; PROVIDING PENALTIES FOR OFFERING FOR SALE SPECIFIC COMMODITIES WITHOUT INDICATING THE COUNTRY OF ORIGIN AND FOR REMOVING LABELS; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO DEVELOP RULES TO IMPLEMENT THE COUNTRY OF ORIGIN PLACARDING ACT; AND PROVIDING EFFECTIVE DATES.

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

Section 1. Short title. [Sections 1 through 5] may be cited as the "Country of Origin Placarding Act".

Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

- (1) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.
- (2) "Label" has the meaning provided in 50-31-103.
- (3) "Labeling" has the meaning provided in 50-31-103.
- (4) "Package" has the meaning provided in 50-31-103.
- (5) "Person" means an individual, partnership, corporation, company, society, or association.
- (6) "Placard" has the meaning provided in 50-31-103.

Section 3. Labeling permitted -- when placarding required -- removal of label prohibited -- exemption.

(1) All producers, growers, and shippers of beef, pork, poultry, or lamb in this state are permitted to label each individual portion, piece, or package of beef, pork, poultry, or lamb in a conspicuous place as legibly, indelibly, and permanently as the nature of the commodity will permit, in a manner that indicates to an ultimate purchaser that the product was produced in Montana.

(2) Muscle cuts and ground beef, pork, poultry, or lamb, including any package that contains any blending of foreign and domestic product, that is produced in any country other than the United States and offered for retail sale in Montana must be labeled with a placard in a manner that indicates to an ultimate purchaser the country of origin.

(3) If one of the products enumerated in subsection (2) is unlabeled and the retail vendor is unable to determine its country of origin, the product must be labeled with a placard as "country of origin unknown".

(4) All retail vendors engaged in the business of selling products that are labeled or identified as to country of origin are prohibited from willfully or knowingly removing the labels or identifying marks.

(5) A placard is not required for prepared foods for immediate sale or ready to eat.

Section 4. Penalties. (1) A person engaged in the business of retail vending of muscle cuts and ground beef, pork, poultry, or lamb who knowingly or purposely offers those products for sale without ensuring that the products are clearly labeled as to the country of origin, as provided in [section 3(2)], is subject to the following penalties:

(a) for a first offense, a vendor shall be fined an amount not to exceed \$100;

(b) for a second offense, a vendor shall be fined an amount not to exceed \$250; and

(c) for a third or subsequent offense, a vendor shall be fined an amount not to exceed \$500.

(2) A person engaged in the business of retail vending of beef, pork, poultry, or lamb who knowingly removes any labels or identifying marks from beef, pork, poultry, or lamb that is labeled as to the country of origin is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) As used in this section, "knowingly" and "purposely" have the meanings provided in 45-2-101.

Section 5. Department authorized to adopt rules. (1) The department may develop, adopt, and administer rules for the efficient enforcement of [sections 1 through 5]. The rules adopted by the department may include but are not limited to:

(a) statements that delineate the difference between imported and unimported raw agricultural commodities for the purpose of [sections 1 through 5];

(b) the preferred labeling or placarding method for each commodity type identified in [sections 1 through 5];
and

(c) other rules that the department considers necessary to enforce [sections 1 through 5].

(2) The rules adopted to implement [sections 1 through 5] may not unduly restrict a person from conducting business.

Section 6. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 30, chapter 12, and the provisions of Title 30, chapter 12, apply to [sections 1 through 5].

Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. Contingent voidness. Upon the funding and full implementation of federal mandatory country of origin labeling, adopted as part of the 2002 federal farm bill, [sections 1, 2(1), (3), (5), and (6), 3(2) through (5), 4, and 5 of this act] are void.

Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, 2006.

(2) [Section 3(1) and this section] are effective on passage and approval.

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