

## 1 SENATE BILL NO. 363

2 INTRODUCED BY J. TESTER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PILOT PROGRAM TO TEST RAW  
5 AGRICULTURAL PRODUCTS IMPORTED FROM A FOREIGN COUNTRY FOR PESTICIDE RESIDUES AND  
6 TO DETERMINE IF IT IS IN THE STATE'S BEST INTEREST TO PETITION THE ADMINISTRATOR OF THE  
7 ENVIRONMENTAL PROTECTION AGENCY TO ESTABLISH A REGULATORY LIMIT THAT IS NOT  
8 IDENTICAL TO THE QUALIFYING FEDERAL DETERMINATION APPLICABLE TO THE PESTICIDE RESIDUE;  
9 AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADOPT RULES;  
10 ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR SAMPLING PROCEDURES;  
11 ESTABLISHING VIOLATION PROCEDURES; DESCRIBING THE CONTENTS AND REQUIREMENTS OF A  
12 REPORT; REQUIRING THE DEPARTMENT OF LIVESTOCK TO DETERMINE IF LIVE IMPORTED ANIMALS,  
13 INTENDED FOR HUMAN CONSUMPTION, HAVE BEEN TREATED WITH DRUGS THAT ARE DISALLOWED  
14 IN THE UNITED STATES; PROVIDING THAT A WAIVER MAY NOT BE GRANTED FOR ANIMAL IMPORTS  
15 FROM A COUNTRY THAT HAS EXPERIENCED AN OUTBREAK OF AN INFECTIOUS OR CONTAGIOUS  
16 DISEASE IN THE LAST 5 YEARS; AMENDING SECTION 81-2-703, MCA; PROVIDING AN EFFECTIVE  
17 DATE AND A TERMINATION DATE."

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

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21 NEW SECTION. **Section 1. Import certification -- pilot program.** (1) The department shall  
22 implement a pilot program to determine whether raw agricultural products imported from a foreign country  
23 are in compliance with the Montana Food, Drug, and Cosmetic Act with regard to prohibitions on  
24 adulterated food, as provided in 50-31-202.

25 (2) The pilot program shall determine, through sample testing, if raw agricultural products imported  
26 from a foreign country contain pesticide residues that are exceeding tolerance standards established in 40  
27 CFR 180 and provided for in 21 USC 346a.

28 (3) The department shall evaluate the tests conducted on raw agricultural products imported from  
29 a foreign country to determine if pesticide residues are at a level that would justify petitioning the  
30 administrator of the environmental protection agency to establish a regulatory limit for pesticide residue

1 that is not identical to the qualifying federal determination applicable to the pesticide residue, pursuant to  
2 the petition procedure provision of 21 USC 346a(n)(5).

3 (4) The department may cooperate with any other agency or local government in accomplishing  
4 the purpose of [sections 1 through 6].

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6 NEW SECTION. **Section 2. Authority to adopt rules.** The department may adopt rules to facilitate  
7 the implementation of [sections 1 through 6]. The rules must be designed to allow the state to make a  
8 determination on whether it is in the state's best interest to petition the administrator of the environmental  
9 protection agency to establish a regulatory limit for pesticide residue that is not identical to the qualifying  
10 federal determination applicable to the pesticide residue.

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12 NEW SECTION. **Section 3. Pesticide importation testing account.** (1) There is a pesticide  
13 importation testing account in the state special revenue fund established in 17-2-102. Funds are deposited  
14 in the account by legislative action. The funds deposited in this account must be expended for the  
15 purposes provided in [section 1].

16 (2) The department may direct the board of investments to invest the funds collected under  
17 subsection (1) pursuant to the provisions of 17-6-201. The income from the investments must be credited  
18 to the account.

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20 NEW SECTION. **Section 4. Sampling procedure.** (1) The department shall use a scientifically  
21 accepted method of collecting samples to provide the information necessary to determine if a petition is  
22 necessary.

23 (2) The department may conduct the sampling and laboratory tests itself, or it may contract with  
24 an appropriate entity specializing in that field.

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26 NEW SECTION. **Section 5. Violations.** If it is determined that a violation of 50-31-202 has  
27 occurred, the attorney general shall determine if it is appropriate to prosecute the offense as a violation  
28 of 50-31-202 or if the results of the investigation should be forwarded to the United States attorney for  
29 Montana. If it is determined that the offense should be prosecuted as a violation of 50-31-202, the  
30 offense must be reported to the county attorney in the county where the violation occurred.

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2            **NEW SECTION. Section 6. Report.** (1) After the pilot program is completed, the department shall  
3 report the results of its testing to the environmental quality council, provided for in 5-16-101, the Montana  
4 attorney general, the Montana legislature, the Montana congressional delegation, the director of the United  
5 States food and drug administration, and the United States secretary of agriculture.

6            (2) The report must state:

7            (a) whether any raw agricultural product contained agricultural chemicals at a level that exceeded  
8 federal tolerance levels;

9            (b) an explanation of which chemical residues were found to be in violation of federal standards  
10 as provided in 40 CFR 180;

11           (c) a list of the originating countries from which raw agricultural commodities were found to be  
12 in violation;

13           (d) the shipping and importing companies who handled the raw agricultural commodities found  
14 to be in violation;

15           (e) recommendations on steps to take to improve compliance with minimum federal standards;

16           (f) recommendations on whether or not the department should petition the administrator of the  
17 environmental protection agency to establish a regulatory limit for pesticide residue that is not identical  
18 to the qualifying federal determination applicable to the pesticide residue; and

19           (g) any other analysis or recommendations the department considers relevant.

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21           **Section 7.** Section 81-2-703, MCA, is amended to read:

22           **"81-2-703. Documents required for importation -- exemptions.** (1) Except as provided in  
23 subsection (6), no animal, animal semen, or animal biologic may be brought into the state without a permit  
24 and also a health certificate.

25           (2) (a) The department shall issue a permit if no significant danger to the public health will ensue  
26 upon importation of the animal into the state.

27           (b) ~~No~~ A permit may not be issued for livestock infected with or exposed to brucellosis,  
28 tuberculosis, or any other infectious, contagious, or communicable animal disease, except that cattle with  
29 a positive reaction to a recognized test for brucellosis may be permitted entry when destined directly for  
30 slaughter at a slaughterhouse under United States department of agriculture supervision.

1           (c) A permit may not be issued for live animals imported from a foreign country and intended for  
2 human consumption until the department has determined that the animals have not been treated with  
3 drugs that are disallowed under 21 CFR 530.41 in animals intended for human consumption.

4           (3) The department may waive the requirement for a health certificate or a permit as provided in  
5 subsection (7).

6           (4) The requirements of subsection (1) apply regardless of species, breed, sex, class, age, point  
7 of origin, place of destination, or purpose of movement.

8           (5) All required documents must be attached to the waybill or be in possession of the driver of  
9 the transporting vehicle or of the person in charge of the animals. When a single permit or health certificate  
10 is issued for animals being moved in more than one vehicle, the driver of each vehicle shall have in his  
11 possession a copy of the permit and, where applicable, a health certificate.

12           (6) Animals, animal semen, or animal biologics being moved through the state with no intent to  
13 unload or deliver in the state are exempted from this part. In an emergency situation, such transitory cargo  
14 may be unloaded in compliance with the quarantine rules promulgated by the department.

15           (7) A waiver of the requirement for a health certificate or a permit ~~shall~~ must be based upon  
16 evidence that there will be no significant danger to the public health if the exemption is granted. A waiver  
17 may not be granted in those instances in which the country of origin has experienced an outbreak of an  
18 infectious or contagious disease in the last 5 years."

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20           NEW SECTION. Section 8. Codification instruction. [Sections 1 through 6] are intended to be  
21 codified as an integral part of Title 50, chapter 31, and the provisions of Title 50, chapter 31, apply to  
22 [sections 1 through 6].

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24           NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2001.

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26           NEW SECTION. Section 10. Termination. [This act] terminates December 31, 2003.

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