

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

A BILL FOR AN ACT ENTITLED: "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; ~~AND~~ AUTHORIZING THE  
DEPARTMENT OF LABOR AND INDUSTRY TO DEVELOP RULES TO IMPLEMENT THE COUNTRY OF  
ORIGIN PLACARDING ACT; AND PROVIDING A DELAYED EFFECTIVE DATES DATE DATES."

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

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

NEW SECTION. **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) "Honey" has the meaning provided in 50-31-103.~~
- ~~(3)~~(2) "Label" has the meaning provided in 50-31-103.
- ~~(4)~~(3) "Labeling" has the meaning provided in 50-31-103.
- ~~(5)~~(4) "Package" has the meaning provided in 50-31-103.
- ~~(6)~~(5) "Person" means an individual, partnership, corporation, company, society, or association.
- ~~(7)~~(6) "Placard" has the meaning provided in 50-31-103.

1            NEW SECTION. Section 3. Labeling permitted -- when placarding required -- removal of label  
 2 **prohibited -- EXEMPTION.** (1) All producers, growers, and shippers of PROCESSED WHOLE grains, ~~honey~~, beef,  
 3 pork, poultry, or lamb in this state are permitted to label each individual portion, piece, or package of PROCESSED  
 4 ~~WHOLE~~ grains, ~~honey~~, beef, pork, poultry, or lamb in a conspicuous place as legibly, indelibly, and permanently  
 5 as the nature of the commodity will permit, in a manner that indicates to an ultimate purchaser that the product  
 6 was produced in Montana.

7            (2) ~~Grains~~ WHOLE PROCESSED WHOLE GRAINS, ~~honey~~, MUSCLE MUSCLE CUTS AND GROUND beef, pork,  
 8 poultry, or lamb, including any package that contains any blending of foreign and domestic product, that is  
 9 produced in any country other than the United States and offered for retail sale in Montana must be labeled with  
 10 a placard in a manner that indicates to an ultimate purchaser the country of origin.

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

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

15            (5) A PLACARD IS NOT REQUIRED FOR PREPARED FOODS FOR IMMEDIATE SALE OR READY TO EAT.

16  
 17            NEW SECTION. Section 4. Penalties. (1) A person engaged in the business of retail vending of  
 18 PROCESSED WHOLE grains, ~~honey~~, MUSCLE CUTS AND GROUND beef, pork, poultry, or lamb who KNOWINGLY OR  
 19 PURPOSELY offers those products for sale without ensuring that the products are clearly labeled as to the country  
 20 of origin, as provided in [section 3(2)], is subject to the following penalties:

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

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

23            (c) for a third OR SUBSEQUENT offense, a vendor shall be fined an amount not to exceed \$500; ~~and.~~

24 ~~—— (d) for a fourth and subsequent offense, a vendor is guilty of a misdemeanor and upon conviction shall~~  
 25 ~~be fined an amount not to exceed \$1,000. This offense is an absolute liability offense as provided in 45-2-104.~~

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

1 (3) As used in this section, "knowingly" ~~has the meaning~~ AND "PURPOSELY" HAVE THE MEANINGS provided  
 2 in 45-2-101.

3  
 4 NEW SECTION. Section 5. Department authorized to adopt rules. (1) The department may  
 5 develop, adopt, and administer rules for the efficient enforcement of [sections 1 through 5]. The rules adopted  
 6 by the department may include but are not limited to:

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

9 (b) the preferred labeling or placarding method for each commodity type identified in [sections 1 through  
 10 5]; and

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

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

14  
 15 ~~COORDINATION SECTION. Section 6. Coordination instruction. If Bill No. LC 433 is passed~~  
 16 ~~and approved and if it reestablishes the made in Montana program within the department of commerce, then~~  
 17 ~~[section 2(1)] must read as follows:~~

18 ~~"(1) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18."~~

19  
 20 NEW SECTION. Section 6. Codification instruction. [Sections 1 through 5] are intended to be  
 21 codified as an integral part of Title 30, chapter 12, and the provisions of Title 30, chapter 12, apply to [sections  
 22 1 through 5].

23  
 24 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are  
 25 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
 26 the part remains in effect in all valid applications that are severable from the invalid applications.

27  
 28 NEW SECTION. SECTION 8. CONTINGENT VOIDNESS. UPON THE FUNDING AND FULL IMPLEMENTATION OF  
 29 FEDERAL MANDATORY COUNTRY OF ORIGIN LABELING, ADOPTED AS PART OF THE 2002 FEDERAL FARM BILL, [SECTIONS  
 30 1, 2(1), (3), (5), AND (6), 3(2) THROUGH (5), 4, AND 5 OF THIS ACT] ARE VOID.

1  
 2 NEW SECTION. SECTION 9. EFFECTIVE DATES -- CONTINGENT VOIDNESS DATE DATES. (1) EXCEPT AS  
 3 PROVIDED IN SUBSECTION SUBSECTIONS (2) AND (3), [THIS] [THIS (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT]  
 4 IS EFFECTIVE OCTOBER 1, 2006.

5 ----- (2) [SECTION 3(1) AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

6 ----- (3) (A) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL REQUEST AN OFFICIAL OPINION FROM THE UNITED  
 7 STATES DEPARTMENT OF AGRICULTURE, AGRICULTURAL MARKETING SERVICE, REGARDING WHETHER THE FEDERAL  
 8 COUNTRY OF ORIGIN LABELING LAW PREEMPTS ANY PORTION OF [THIS ACT].

9 ----- (B) IF THE OFFICIAL OPINION IS THAT THE FEDERAL COUNTRY OF ORIGIN LABELING LAW PREEMPTS ANY PORTION  
 10 OF [THIS ACT], THIS ACT IS VOID AND THE DEPARTMENT OF LABOR AND INDUSTRY SHALL INFORM THE CODE COMMISSIONER.  
 11 IF THE OFFICIAL OPINION IS THAT THE FEDERAL COUNTRY OF ORIGIN LABELING LAW DOES NOT PREEMPT ANY PORTION OF  
 12 [THIS ACT], [THIS ACT] IS EFFECTIVE AS PROVIDED IN THIS SECTION AND THE DEPARTMENT OF LABOR AND INDUSTRY SHALL  
 13 NOTIFY THE CODE COMMISSIONER.

14 (2) [SECTION 3(1) AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

15 - END -