

HOUSE BILL NO. 166

INTRODUCED BY J. TREBAS

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CERTAIN NONPROFIT RETAIL FOOD ESTABLISHMENTS TO USE WILD GAME MEAT IN MEALS SERVED FOR NO CHARGE; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 7-21-4202, 50-2-116, AND 50-50-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Nonprofit retail food establishments authorized to serve wild deer and elk meat -- rulemaking -- definitions. (1) A retail food establishment that is owned and operated by a nonprofit organization may use commercially processed meat from wild deer and elk taken in Montana in meals served to individuals at no charge.

(2) The department may adopt food safety rules for the implementation of this section.

(3) For the purposes of this section, the following terms apply:

(a) "Commercially processed meat" means wild deer or elk processed by a person, firm, or corporation that has a valid meat establishment license pursuant to 81-9-201.

(b) "Nonprofit organization" means an organization exempt from taxation under section 26 U.S.C. 501(c)(3), as amended.

(c) "Retail food establishment" has the same meaning as provided in 50-50-102.

Section 2. Section 7-21-4202, MCA, is amended to read:

"7-21-4202. Regulation of foodstuffs. The city or town council has power to:

(1) provide for and regulate the inspection of flour, meal, and all provisions and oils; ~~to~~

(2) regulate the inspection of milk, water, butter, lard, and other provisions; ~~to~~

(3) except as provided in [section 1], regulate the vending of meat, poultry, fish, game, and vegetables; ~~to~~ and

(4) restrain and punish the forestalling of provisions."



- 1 **Section 3.** Section 50-2-116, MCA, is amended to read:
- 2 **"50-2-116. Powers and duties of local boards of health.** (1) In order to carry out the purposes of the
- 3 public health system, in collaboration with federal, state, and local partners, each local board of health shall:
- 4 (a) appoint and fix the salary of a local health officer who is:
- 5 (i) a physician;
- 6 (ii) a person with a master's degree in public health; or
- 7 (iii) a person with equivalent education and experience, as determined by the department;
- 8 (b) elect a presiding officer and other necessary officers;
- 9 (c) employ qualified staff;
- 10 (d) adopt bylaws to govern meetings;
- 11 (e) hold regular meetings at least quarterly and hold special meetings as necessary;
- 12 (f) identify, assess, prevent, and ameliorate conditions of public health importance through:
- 13 (i) epidemiological tracking and investigation;
- 14 (ii) screening and testing;
- 15 (iii) isolation and quarantine measures;
- 16 (iv) diagnosis, treatment, and case management;
- 17 (v) abatement of public health nuisances;
- 18 (vi) inspections;
- 19 (vii) collecting and maintaining health information;
- 20 (viii) education and training of health professionals; or
- 21 (ix) other public health measures as allowed by law;
- 22 (g) protect the public from the introduction and spread of communicable disease or other conditions of
- 23 public health importance, including through actions to ensure the removal of filth or other contaminants that might
- 24 cause disease or adversely affect public health;
- 25 (h) supervise or make inspections for conditions of public health importance and issue written orders for
- 26 compliance or for correction, destruction, or removal of the conditions;
- 27 (i) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of
- 28 public health laws, rules, and local regulations;
- 29 (j) identify to the department an administrative liaison for public health. The liaison must be the local
- 30 health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a

1 full-time local health officer, the liaison must be the highest ranking public health professional employed by the
2 jurisdiction.

3 (k) subject to the provisions of 50-2-130, adopt necessary regulations that are not less stringent than
4 state standards for the control and disposal of sewage from private and public buildings and facilities that are not
5 regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting
6 variances from the minimum requirements that are identical to standards promulgated by the board of
7 environmental review and must provide for appeal of variance decisions to the department as required by
8 75-5-305. If the local board of health regulates or permits water well drilling, the regulations must prohibit the
9 drilling of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property
10 without the authorization of the private property owner.

11 (2) Local boards of health may:

12 (a) accept and spend funds received from a federal agency, the state, a school district, or other persons
13 or entities;

14 (b) adopt necessary fees to administer regulations for the control and disposal of sewage from private
15 and public buildings and facilities;

16 (c) adopt regulations that do not conflict with section 1 or rules adopted by the department:

17 (i) for the control of communicable diseases;

18 (ii) for the removal of filth that might cause disease or adversely affect public health;

19 (iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that
20 affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly
21 into state water and that are not required to have an operating permit as required by rules adopted under
22 75-5-401;

23 (iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing
24 establishments and that are not less stringent than state standards for tattooing and body-piercing
25 establishments;

26 (v) for the establishment of institutional controls that have been selected or approved by the:

27 (A) United States environmental protection agency as part of a remedy for a facility under the federal
28 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

29 (B) department of environmental quality as part of a remedy for a facility under the Montana
30 Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and

1 (vi) to implement the public health laws; and
 2 (d) promote cooperation and formal collaborative agreements between the local board of health and
 3 tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting,
 4 information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters
 5 addressed in this title.

6 (3) A local board of health may provide, implement, facilitate, or encourage other public health services
 7 and functions as considered reasonable and necessary."
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9 **Section 4.** Section 50-50-103, MCA, is amended to read:

10 **"50-50-103. Department authorized to adopt rules -- advisory council.** (1) ~~For~~ Except as provided
 11 in subsection (3), to protect public health, the department may adopt rules relating to:

12 (a) the operation of retail food establishments and cottage food operations. The rules may address
 13 sanitation standards related to food, personnel, food equipment and utensils, and facilities and may address other
 14 controls, construction and fixtures, and housekeeping.

15 (b) licensure of retail food establishments; and

16 (c) registration for cottage food operations, including the fees to be charged for registration. The
 17 department shall specify in rule any fees for farmer's markets and cottage food operations that may be imposed
 18 by a regulatory authority.

19 (2) The department may adopt rules regarding permitting fees, statewide standards, plans to be provided
 20 by mobile food establishments as part of a mobile food establishment's licensing requirements, and an appeals
 21 process at the state and local levels.

22 (3) The department and local boards of health may not adopt rules or ordinances, respectively, that
 23 prohibit:

24 (a) the sale of cottage food products; or

25 (b) the use of commercially processed deer and elk meat in meals served by nonprofit retail food
 26 establishments pursuant to [section 1].

27 (4) (a) The department shall establish a food safety task force or advisory council to assist in the
 28 development of administrative rules or to review any proposed legislation related to the provisions of this chapter.

29 (b) The task force or advisory council must be composed of equal numbers of representatives of the
 30 departments of public health and human services, agriculture, and livestock and of registered sanitarians from

1 local regulatory authorities and no more than six members of the public. Each department head shall appoint two
2 of the public members and confer with other department heads to provide geographic representation. Each public
3 member must be an owner or employee of a licensed retail food establishment or a representative of the food
4 industry.

5 (c) The department shall present administrative rules and any legislation to be proposed by the
6 department to the task force or advisory council prior to its proposal or introduction. When the department learns
7 of proposed legislation related to the provisions of this chapter that has not been proposed by the department,
8 the department shall provide copies of that legislation for review by the task force or advisory council and shall
9 provide to the legislature any comments of the task force or advisory council."

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11 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
12 integral part of Title 50, chapter 50, part 1, and the provisions of Title 50, chapter 50, part 1, apply to [section 1].

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14 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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