



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

**Bill #** HB0324

**Title:** Generally revise certain labeling laws

**Primary Sponsor:** Smith, Frank

**Status:** As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$138,811	\$84,892	\$84,892	\$84,892
State Special Revenue	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$138,811)</u>	<u>(\$84,892)</u>	<u>(\$84,892)</u>	<u>(\$84,892)</u>

**Description of fiscal impact:** HB 324 requires a placard noting the country of origin to be placed in the vicinity of beef or pork products for sale that is viewable by the public, exceptions being prepared foods that are for immediate sale or ready to eat. The fiscal impact comes from rulemaking costs for the Department of Labor and Industry, Weights and Measures program and personal service and travel costs for a program inspector to visit vendors and businesses to provide oversight and monitoring. The legislation provides for no penalties or action for noncompliance.

### FISCAL ANALYSIS

**Assumptions:**

1. The Department of Labor and Industry (DLI) will draft, notice, and adopt rules to implement this legislation. Per the legislation, rules will delineate the difference between imported and unimported beef, pork, or both, and outline the preferred labeling or placarding method for each commodity type, and as well as other rules as necessary.
2. It is assumed there will be a ten-page rule notice and three-page adoption notice with an expense to the Weights and Measures program from the Secretary of State for publishing and printing of \$780.

3. The department will hold a public hearing for comments on the rule proposal for a maximum of two hours, with a hearing officer and court reporter present to record comments and provide a transcript. Total estimated cost is \$459.
4. It is unknown how many establishments would be affected by this legislation, but Montana has an estimated 600 establishments that have scales capable of commercially weighing commodities. It is assumed at a minimum, a postcard would be sent to these establishments, directing them to the Weights and Measures program website to review the rule notice, make written comment, and/or, attend the hearing and make public comment. If email addresses are available, the notice would be sent by email, otherwise, it is estimated the program would incur a cost of \$600 to send them out via USPS.
5. The department will require additional legal services to assist in drafting the rules, respond to public comment and prepare an adoption notice. It is estimated a minimum of forty hours of legal service time will be billed to the program for a total of \$4,080 in the first year of the biennium.
6. The Weights and Measures program has been under contract with the Federal COOL (Country of Origin Labeling Program), since 2009 and performs all inspections for this program in Montana as requested. The program selects the sites to be inspected, (eleven in FY 2019 and ten in FY 2020) and pays a per inspection rate to cover the time for inspections and some travel costs. The federal program currently does not cover beef and pork products.
7. The compliance requirements of this legislation are not indicated, but the department assumes there would be a 100% inspection compliance for all 600 locations. As a result, it is assumed the program will require one FTE Inspector, to perform annual inspections for review, compliance and follow up, to include travel to each location, data entry, documentation of compliance or noncompliance, and provide follow up and education. The estimated expense to the Weights and Measures program is \$81,610 to cover salary, benefits, office, and computer set up, and indirect costs in the first year of the biennium. Costs in the second year and forward would be \$78,810. Indirect costs in the fiscal table are noted under operating.
8. The Weights and Measures program annual average travel costs are \$42,568 for seven inspectors. Based on this, it is assumed travel for one inspector will be \$6,081 annually.
9. It is assumed a database will be necessary to store information, track inspections, and provide an ability for inspectors to log information from locations outside the office, produce communications with vendors, and provide reporting functions. The division has a database, (Accela), which a new program could be added to, but the one-time purchase of a new license would be required of \$3,200. Maintenance costs for the database would need to be determined based on the number of records and data that is stored. There would be IT expenses involved with building a new record and establishing the new program.
10. Estimated costs for analysis, design, development, testing, scripting, training, project management, and building a website for the program, is 500 hours at \$84 per hour for a one-time operating cost of \$42,000.
11. HB 324 does not provide a funding mechanism for inspections or compliance with this legislation and is vague as to whether compliance is required. A revenue source is not indicated and is unknown. Therefore, the department assumes the program would be funded by the state general fund.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE	1.00	1.00	1.00	1.00
<b><u>Expenditures:</u></b>				
Personal Services	\$72,470	\$72,470	\$72,470	\$72,470
Operating Expenses	\$66,341	\$12,422	\$12,422	\$12,422
<b>TOTAL Expenditures</b>	<b>\$138,811</b>	<b>\$84,892</b>	<b>\$84,892</b>	<b>\$84,892</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$138,811	\$84,892	\$84,892	\$84,892
<b>TOTAL Funding of Exp.</b>	<b>\$138,811</b>	<b>\$84,892</b>	<b>\$84,892</b>	<b>\$84,892</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Net Impact to Fund Balance (Revenue minus Funding of Expenditures):**

General Fund (01)	(\$138,811)	(\$84,892)	(\$84,892)	(\$84,892)
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**Technical Notes:**

1. To the extent that the bill (or rules promulgated to implement Sections 1 through 4 of the bill) provide more favorable treatment for domestic livestock and poultry products than imported livestock and poultry products, the bill may violate certain international trade agreements to which the United States is a party, including those of the World Trade Organization.
2. Section 2 is ambiguous in its requirements, particularly as to the “effort” required to placard products, as compared with the “knowing” or “purposeful” removal of a placard.
3. The use of terms “imported and unimported” in section 3, as contrasted with “born, raised, and processed in the USA” versus “imported/origin unlabeled” creates ambiguity.
4. While rulemaking authority is vested with the Department of Labor & Industry, the department is not vested with inspection or enforcement authority. See Mont. Code Ann. Title 30, Chapter 12, Part 2 (granting those authorities to Parts 1 through 5 of the chapter).

**NOT SIGNED BY SPONSOR**

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Sponsor's Initials

2/15/21  
\_\_\_\_\_  
Date

KA  
\_\_\_\_\_  
Budget Director's Initials

2/13/21  
\_\_\_\_\_  
Date