

FOOD SAFETY
State and Federal Standards and Regulations

Montana

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MONTANA

Montana regulates food quality through the Montana Food, Drug, and Cosmetic Act,¹⁵³⁷ the Meat and Poultry Inspection Act,¹⁵³⁸ and other provisions relating to livestock, poultry and eggs, and dairy products.¹⁵³⁹ The Food, Drug, and Cosmetic Act is enforced by the department of public health and human services, while the department of livestock supervises the enforcement of provisions relating to livestock, poultry and eggs, and dairy products.

Food, Drug, and Cosmetic Act

Under the Montana Food, Drug, and Cosmetic Act, the department of public health and human services may adopt rules for enforcement, and may adopt by reference, the regulations adopted under the federal act and the Fair Packaging and Labeling Act.¹⁵⁴⁰ A "food" includes articles used for food or drink for humans or other animals; chewing gum; and articles used for components of these articles.¹⁵⁴¹

Inspection

The department or its agents have free access at all reasonable hours to any factory, warehouse, or establishment in which food is manufactured, processed, packed, or held for introduction into commerce or to any vehicle used to transport such food to inspect the facility for violations of the act and to secure samples of any food after paying for or offering to pay for

¹⁵³⁷ MONT. CODE ANN. § 50-31-101 *et seq.* (1997).

¹⁵³⁸ §§ 81-9-216 to 220, 81-9-226 to 236.

¹⁵³⁹ § 81-2-103 *et seq.*

¹⁵⁴⁰ § 50-31-104.

¹⁵⁴¹ § 50-31-103(21).

the sample. The Act allows the department free access to all facilities determine if departmental permits, as described below, are in compliance.¹⁵⁴²

Adulteration

The Act defines adulteration in a manner consistent with federal regulations.¹⁵⁴³ The Act prohibits the adulteration of any food and establishes penalties for violations.¹⁵⁴⁴ Violations are punishable as a misdemeanor, and the department may also obtain temporary or permanent injunctive relief to enjoin further violations. Adulterated articles may be detained or embargoed, and the department shall petition the court for an order condemning embargoed articles. If the court finds that an embargoed article is adulterated, it shall order its destruction. If the article can be corrected by proper labeling or processing, the owner may do so after paying a bond.¹⁵⁴⁵

Misbranding

The Act defines misbranding in a manner consistent with federal regulations.¹⁵⁴⁶ The Act prohibits the misbranding of any food and establishes penalties for violations.¹⁵⁴⁷ Violations are punishable as a misdemeanor, and the department may also obtain temporary or permanent injunctive relief to enjoin further violations. Misbranded articles may be detained or embargoed and the department shall petition the court for an order condemning the embargoed articles. If the court finds that an embargoed article is misbranded, it shall order its destruction. If the article

¹⁵⁴² § 50-31-106.

¹⁵⁴³ § 50-31-202.

¹⁵⁴⁴ §§ 50-31-501, 508.

¹⁵⁴⁵ § 50-31-509.

¹⁵⁴⁶ § 50-31-203.

¹⁵⁴⁷ §§ 50-31-501, 508.

can be corrected by proper labeling or processing, the owner may do so after paying a bond.¹⁵⁴⁸

Permitting

If, after investigation, the department finds that any class of food in any locality may have been contaminated, it shall promulgate regulations requiring temporary permits for food manufacturers, processors, and packers of such class of food in the locality before any foods may be introduced into commerce.¹⁵⁴⁹

Labeling

The department shall promulgate regulations establishing reasonable definitions and standards of identity, quality, and/or fill of container, and if it promulgates rules for definitions and standards of identity for food in which optional ingredients are permitted, it shall designate the optional ingredients which shall be named on the label.¹⁵⁵⁰ One provision of the Act defines “organic foods” and requires they be labeled in accordance with specific instructions.¹⁵⁵¹

Enforcement

An agent of the department has authority to detain or embargo the sale of any article found to be adulterated or misbranded. The agent is to tag or otherwise mark the article so that it cannot be removed or disposed of until a court proceeding determines that it is, in fact, a violation of the Act. If the article is in violation, the article must be destroyed at the expense of the owner unless proper processing could correct the adulteration or misbranding. In such cases,

¹⁵⁴⁸ § 50-31-509.

¹⁵⁴⁹ § 50-31-205.

¹⁵⁵⁰ § 50-31-201.

¹⁵⁵¹ §§ 50-31-222, -223.

the article may be released if the owner posts bond and pays all costs and expenses.¹⁵⁵²

If meat, seafood, poultry, vegetable, fruit, or other perishable articles are found to contain any filthy, putrid, or decomposed substance or that may be poisonous or deleterious to health or otherwise unsafe, the department or its agent is authorized to destroy the article or make it unsaleable as human food.¹⁵⁵³

In addition to the procedures related to seizure and condemnation, district courts are authorized to grant temporary or permanent injunctions to restrain any violations of the Act.¹⁵⁵⁴ Penalties may also be imposed for violations; but, if the violations are minor, the department may give a suitable notice or warning rather than report the matter for institution of court proceedings.¹⁵⁵⁵

The inspection and permitting provisions also serve as enforcement mechanisms of the Act.¹⁵⁵⁶

Department of Livestock

The Department of livestock supervises disease control, branding, containment, marketing, and slaughter of livestock, sets out provisions for supervision of poultry and eggs, and dairy products, and enforces the provisions of the Meat and Poultry Inspection Act.

¹⁵⁵² § 50-31-509.

¹⁵⁵³ § 50-31-510.

¹⁵⁵⁴ § 50-31-508.

¹⁵⁵⁵ §§ 50-31-503, -506.

¹⁵⁵⁶ *See e.g.*, §§ 50-31-106, -205.

Disease Control

The department is to adopt and enforce rules for the testing of livestock or other animals that may be exposed to disease, and is to cooperate with the federal government to eradicate or control disease.¹⁵⁵⁷

Licensing

Persons engaging in slaughterhouse activities must be licensed by the state.¹⁵⁵⁸

Meat and Poultry Inspection Act¹⁵⁵⁹

This Act is contained in the provisions for the Department of Livestock.

Federal/State Cooperation

The Act calls for cooperation by with the state department of environmental quality and any state laboratory to determine issues of water potability, sewer systems, and other sanitary conditions. The board is to cooperate with the U.S. secretary of agriculture for development, training, and assistance.¹⁵⁶⁰

Inspection

The state inspection program requires antemortem and postmortem inspections of animals consistent with USDA rules.¹⁵⁶¹ The Act requires inspectors be present at each official slaughterhouse,¹⁵⁶² and requires these inspectors to inspect all animals before they enter a

¹⁵⁵⁷ §§ 81-2-103, 104.

¹⁵⁵⁸ § 81-9-201.

¹⁵⁵⁹ §§ 81-9-216 to 220, 81-9-226 to 236.

¹⁵⁶⁰ § 81-9-233.

¹⁵⁶¹ § 81-9-220.

¹⁵⁶² § 81-9-229.

slaughtering establishment and separate those which show signs of disease, as well as conduct a postmortem inspection.¹⁵⁶³ All unfit or diseased carcasses must be condemned by the inspector removed from the establishment.¹⁵⁶⁴

Poultry and Eggs

The department of livestock enforces various statutory provisions relating to poultry and eggs.¹⁵⁶⁵ Violations of the provisions are punishable by civil penalties and temporary or permanent injunctive relief.¹⁵⁶⁶ All sellers, buyers, or dealers must be licensed by the department, and all dealers buying eggs for sale at retail and for resale at wholesale shall pay a licensing fee. Wholesale and retail dealers who handle more than 25 cases of eggs a month, when handling candled eggs, must sell only eggs candled by licensed graders.¹⁵⁶⁷ The provisions define candling and require every person buying eggs for sale at retail to candle all eggs and return rejected eggs to the producer. Violations of the provisions are punishable as a misdemeanor.¹⁵⁶⁸

Dairy Products

Licensing

Dairies selling milk or cream for public consumption must obtain a license from the department of livestock.¹⁵⁶⁹ Certain producers, including creameries, butter factories, and cheese

¹⁵⁶³ § 81-9-234.

¹⁵⁶⁴ § 81-9-231.

¹⁵⁶⁵ § 81-20-101 *et seq.*

¹⁵⁶⁶ §§ 81-20-102, 104.

¹⁵⁶⁷ § 81-20-201.

¹⁵⁶⁸ §§ 81-20-203, -204.

¹⁵⁶⁹ § 81-21-102.

factories, are exempt from the licensing requirement.¹⁵⁷⁰

Manufactured Dairy Products

These department may establish and regulate sanitation standards for dairy producers.¹⁵⁷¹ The Act requires a license to operate a manufactured dairy products plant.¹⁵⁷² Cream stations, graders, weighers, samplers, testers, and producers also must have licenses.¹⁵⁷³ The department may also establish licensing fees as it deems appropriate. The department issues licenses as a privilege and may revoke the license for cause.¹⁵⁷⁴ The department has authority to inspect all dairies and plants.¹⁵⁷⁵ All milk must be graded and the provisions prohibit the sale of musty, adulterated, rancid, or dirty milk or cream.¹⁵⁷⁶

The Act sets out requirements for containers and equipment,¹⁵⁷⁷ as well as for and sanitation, quality, and labeling.¹⁵⁷⁸ Violations of the provisions are punishable as a misdemeanor.¹⁵⁷⁹

¹⁵⁷⁰ § 81-21-103.

¹⁵⁷¹ § 81-22-102.

¹⁵⁷² § 81-22-201.

¹⁵⁷³ §§ 81-22-206, -208.

¹⁵⁷⁴ § 81-22-207.

¹⁵⁷⁵ § 81-22-304.

¹⁵⁷⁶ § 81-22-401.

¹⁵⁷⁷ § 81-22-419.

¹⁵⁷⁸ § 81-22-401 *et seq.*

¹⁵⁷⁹ § 81-22-601.