

## Montana State Laws Affected by H.R. 4879

- I. Food
  - a. Food Safety
    - i. Date Label Laws
      - 1. These laws require and regulate “sell-by” date labels on food items. They are intended to promote both food quality and safety.
      - 2. Mont. Admin. R. 32.8.203
    - ii. Date Packaged, Produced, or Harvested
      - 1. These laws require manufacturers to indicate on items the date on which they were harvested, produced, or otherwise packaged and processed. They are intended to inform consumers as to freshness and quality.
      - 2. Mont. Admin. R. 32.8.203
    - iii. Sale of Expired Foods
      - 1. These regulations prohibit or restrict the sale of food items past their expiration date. Most of these laws apply generally to many types of food items and are intended to protect quality and safety.
      - 2. Mont. Admin. R. 32.8.203
  - b. Dairy
    - i. Date Labels
      - 1. These laws require milk or other dairy products be marked with a “sell-by” label to indicate the date by which the product should be sold to consumers.
      - 2. Mont. Admin. R. 32.8.203
  - c. Cottage Food Production
    - i. Labeling, Production, and Restriction of Sale
      - 1. These laws place conditions or restrictions the production and sale of cottage foods—those foods not produced in a commercial kitchen but instead created in home kitchens or small-scale production facilities. They are intended to ensure that the food is safe and properly labeled.
      - 2. MCA 50-50-116
      - 3. Mont.Admin.R. 37.110.510
      - 4. Mont.Admin.R. 37.110.508
      - 5. Mont.Admin.R. 37.110.503
- II. Alcohol
  - a. Beer, Wine, and Liquor
    - i. Labeling
      - 1. These laws impose labeling requirements on alcoholic products offered for sale within the state. However, it should be noted that the Twenty-First Amendment may protect a state’s ability to

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- enforce such regulations even if they would otherwise be preempted by PICA.
          - 2. Mont.Admin.R. 42.13.201
          - 3. Mont.Admin.R. 42.13.204
          - 4. Mont.Admin.R. 42.13.203
        - ii. Import
          - 1. These laws impose requirements governing the importation of alcoholic products into the state. However, it should be noted that the Twenty-First Amendment may protect a state’s ability to enforce such regulations even if they would otherwise be preempted by PICA.
          - 2. Mont.Admin.R. 42.13.401
        - iii. Recordkeeping
          - 1. These laws impose recordkeeping requirements on producers of alcoholic products offered for sale within the state. However, it should be noted that the Twenty-First Amendment may protect a state’s ability to enforce such regulations even if they would otherwise be preempted by PICA.
          - 2. Mont.Admin.R. 42.13.404
- III. Drugs
  - a. Recreational
    - i. Salvia
      - 1. Salvia divinorum or “Salvia” is a species of plant whose leaves have psychoactive properties when consumed or inhaled. Some laws criminalize the sale or possession of salvia, while others impose age restrictions for purchase.
      - 2. MCA 50-32-222
    - b. Tobacco
      - i. Fire Safety Standards
        - 1. These state laws require that any cigarettes offered for sale or sold in the state be tested in accordance with specific test methods and meet certain flammability standards. They are intended to reduce the risk of unintended fires caused by discarded cigarettes.
        - 2. Mont. Code Ann. § 50-65-102
        - 3. Mont. Code Ann. § 50-65-104
- IV. Fishing
  - a. None
- V. Wood and Lumber
  - a. None
- VI. Home Goods and Products
  - a. None
- VII. Live Animal Imports
  - a. Aquaculture

- i. Infectious Salmon Anemia
    1. Infectious salmon anemia (ISA) is a viral disease of Atlantic salmon that affects fish farms, causing severe losses to infected farms. Federal regulations apply only to Maine producers (see 9 C.F.R. § 53.1), but other states have implemented additional laws that prohibit the importation of fish exposed to the disease or otherwise restrict the movement of particular fish.
    2. Mont. Admin.R. 12.7.502
    3. Mont. Admin.R. 12.7.505
  - ii. Aquaculture Import and Disease Reporting
    1. Many states require reporting of various communicable diseases found in fish farms. Additionally, many states require permits and/or health testing for importation of fish to fish farms.
    2. MCA 87-3-210 to 87-3-227
  - iii. Viral hemorrhagic Septicemia
    1. These laws impose import requirements or other restrictions on certain species of fish in order to prevent the spread of viral hemorrhagic septicemia, a disease that causes internal bleeding and death among infected animals. Previously, the federal government regulated this disease; however, on April 14, 2014 federal restrictions were removed with the thought that existing state-level regulation was effective and sufficient to limit spread of the disease.
    2. Mont. Code sections 87-3-210 to 87-3-227
- b. Birds
- i. Avian Influenza and Newcastle Disease
    1. Highly Pathogenic Avian Influenza is a contagious virus most often spread by contact between infected and healthy birds (including wild birds). Humans also can contract this disease. The 2014-15 avian influenza outbreak required the destruction of 50 million birds costing the industry \$3.3 billion in losses. Similarly, Newcastle disease is a contagious viral bird disease affecting the poultry industry and wild avians that is transmissible to humans. States have imposed laws requiring testing, reporting, and regulating imports of poultry to control these diseases, that work in conjunction with federal restrictions.
    2. Mont.Admin.R. 32.3.104
- c. Cattle and Bison
- i. Anthrax
    1. Anthrax is an infectious bacterial disease often found in cattle and sheep that causes sudden death and is transmissible to humans. Most often, it is spread through exposure to the spores formed during the decay of deceased animals. Federal regulation prohibits the interstate movement of animals affected by anthrax.

However, states impose further restrictions on the importation of animals that have been or may have been exposed to the disease.

2. Mont. Admin. R. 32.3.202
  3. Mont. Admin. R. 32.3.206
  4. <http://liv.mt.gov/Animal-Health/Diseases/Reportable-Animal-Diseases>
- ii. Brucellosis
1. Brucellosis is a contagious and costly disease typically affecting cattle, bison, cervids (elk and deer), and swine that also affects humans. It is a bacterial infection that spreads from animals to people most often through ingestion of unpasteurized milk, cheese, and other dairy products. All 50 states participate in a voluntary program with the federal government to control brucellosis in cattle, and many states impose additional regulations requiring testing, reporting, and regulating of imports.
  2. Mont. Admin. R. 32.3.212A
- iii. Bovine Tuberculosis
1. In the early 19th century, bovine tuberculosis caused more deaths of cattle than all other diseases combined. It is a chronic bacterial disease of cows that can spread to humans, typically by the inhalation of aerosols or the ingestion of unpasteurized milk. All 50 states participate in a voluntary program administered in conjunction with the federal government requiring testing, quarantine, and destruction of diseased animals. In addition many states have enacted special legislation addressing the importation of cattle into the state.
  2. Mont. Admin. R. 32.3.2006
- iv. Rabies
1. Rabies can occur in all warm-blooded animals and is always fatal if not treated promptly after exposure. All forms of livestock and companion animals are at risk for contracting the disease. Transmission often occurs through a bite from a rabid animal and as such the disease can travel between wild and domestic species. These laws prohibit the importation of animals exposed to rabies or impose additional restrictions to prevent the spread of this disease.
  2. Mont. Admin. R. 32.3.202
  3. Mont. Admin. R. 32.3.206
  4. <http://liv.mt.gov/Animal-Health/Diseases/Reportable-Animal-Diseases>
- d. Cervids
- i. Chronic Wasting Disease (“CWD”): Restrictions
    1. These laws impose import restrictions and other requirements to ensure that cervids entering the state are not carriers of chronic

wasting disease. Some regulations require that only cervids that have been enrolled in a voluntary CWD Herd Certification Program and have undergone testing for the disease may enter the state. These laws are intended to protect local deer producers and wild deer populations.

2. Mont. Admin. R. 32.4.1309
3. Mont. Admin. R. 32.4.502

e. Bees

i. Import Requirements and Health Certifications

1. These laws impose certification, permitting, or registration requirements prior to the movement of bees into the state. They are intended to ensure the health of bee colonies prior to import in order to protect the health of local bee populations and prevent the spread of disease.
2. Mont.Admin.R. 4.12.106
3. MCA 80-6-202

f. Horses

i. Equine Infectious Anemia

1. Equine Infectious Anemia (“EIA” or “Swamp Fever”) is a viral disease that is extremely contagious, spread through fly bites, and leads to severe, chronic disease or death. Federal regulations restrict the interstate movement of horses once they test positive for EIA but impose no testing requirement. States regulate the importation of horses, often requiring a negative EIA test prior to import.
2. Mont.Admin.R. 32.3.216

g. Sheep and Goats

i. Scrapie

1. Scrapie is a fatal, degenerative disease that affects the nervous systems of infected sheep and goats. It is one of several transmissible spongiform encephalopathies (“TSEs”)—which are related to bovine spongiform encephalopathy (“BSE” or “mad cow disease”) and chronic wasting disease in deer. Some states participate in the voluntary National Scrapie Eradication Program to test and destroy animals that test positive for scrapie. In addition, many states require negative testing or certification prior to importation.
2. Mont.Admin.R. 32.3.1303
3. Mont.Admin.R. 32.3.202

h. Swine

i. Pseudorabies

1. Pseudorabies is an infectious, herpes-virus disease of the central nervous system that causes convulsions, intense itching, and is generally fatal. Some states participate in the voluntary

Pseudorabies Eradication State-Federal-Industry Program which includes surveillance, herd certification, and herd cleanup once an animal tests positive. Additionally, many states require testing or certification prior to import.

2. Mont.Admin.R. 32.3.220
  3. Mont.Admin.R. 32.3.306
  4. Mont.Admin.R. 32.3.314
  5. Mont.Admin.R. 32.3.206
  6. Mont.Admin.R. 32.3.219
- ii. Swine Vesicular Disease
    1. Swine vesicular disease causes lesions on the feet, snout, and mouth of swine, and is economically costly because it must be distinguished from foot-and-mouth disease. These laws restrict the importation of pigs to prevent the spread of swine vesicular disease.
    2. Mont. Admin. R. 32.3.202
    3. Mont. Admin. R. 32.3.206
    4. <http://liv.mt.gov/Animal-Health/Diseases/Reportable-Animal-Diseases>
  - i. Pig Semen and Ova
    - i. Gamete Importation
      1. These laws impose regulations and restrictions on the importation of semen and ova from swine to be used for breeding purposes. They are intended to prevent the transmission of disease and ensure that animals produced from imported stock are healthy.
      2. Mont.Admin.R. 32.4.403
      3. Mont.Admin.R. 32.3.220
  - j. Exotic Meats
    - i. Horsemeat Labeling
      1. These state regulations require that horsemeat be specifically labelled as such. They are intended to increase transparency regarding sourcing.
      2. Mont.Admin.R. 32.6.901
    - ii. Reindeer
      1. These regulations prohibit the importation of reindeer. They are intended to prohibit the spread of disease and protect local cervid populations.
      2. Mont.Admin.R. 32.4.502
- VIII. Companion Animals
- a. None
- IX. Products for Animals
- a. Prohibited Foods
    - i. Feed Garbage to Swine

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1. Swine Health Protection Act (“SHPA”) requires that meat and animal-byproduct-containing food scraps are heat treated before being fed to swine. However, states can impose additional regulations including more stringent heat treatments, conditions on vegetable food scraps, regulations on what can be feed to owner’s own swine, import regulations, etc. For the purposes of this discussion, only regulations addressing restrictions on the importation of garbage-fed swine are relevant.
  2. Mont.Admin.R. 32.3.219
- X. Dead Animals and Animal Parts
- a. None
- XI. Invasive Pests, Plants, and Disease
- a. Noxious Weeds
    - i. These laws augment and supplement the federal list of noxious weeds according to the concerns of a particular state. Some prohibit any importation of a plant or seedling, while others set maximum allowances for noxious weed seeds that may be intermixed with any other agricultural seed sold within the state. They are intended to inhibit the spread of undesirable plants and weeds throughout the United States.
    - ii. Mont.Admin.R. 4.12.3004
- XII. Procurement
- a. Agricultural Goods
    1. These laws regulate government bid and solicitation preferences for products or services. Often they impose preferences for in-state producers of agricultural products.
    2. MCA 18-1-102
- XIII. General Prohibitions
- a. None
- XIV. Miscellaneous
- a. None