

1 HOUSE BILL NO. 66

2 INTRODUCED BY BARNETT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE BEE
5 PARASITES IN THE DEFINITION OF BEE DISEASES; TO REVISE THE
6 PROCEDURES RELATED TO INSPECTION OF BEES; TO ALLOW THE
7 DEPARTMENT OF AGRICULTURE TO ESTABLISH AN HOURLY RATE FOR
8 INSPECTION FEES IN ADDITION TO PRESENT INSPECTION FEES,
9 UNDER CERTAIN CIRCUMSTANCES; TO ALLOW AGREEMENTS BETWEEN THE
10 DEPARTMENT OF AGRICULTURE AND OTHER STATES, AGENCIES, AND
11 INDIVIDUALS TO CARRY OUT MONTANA BEE POLICY; AMENDING
12 SECTIONS 80-6-101, 80-6-201, AND 80-6-202, MCA; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 80-6-101, MCA, is amended to read:

17 "80-6-101. Definitions. Unless the context requires
18 otherwise, in this chapter the following definitions apply:19 (1) "Apiary" means a place where one or more colonies
20 of bees are kept or one or more hives containing honeycombs
21 or bee combs are kept.22 (2) "Bee diseases" means American or European
23 foulbrood, sacbrood, bee paralysis, bee parasites, or other
24 disease or abnormal condition of egg, larval, pupal, or
25 adult stages of bees.1 (3) "Bees" means any stage of the bees in the genus
2 Apis.3 (4) "Colony" means the hive and all equipment used in
4 connection with the hive.5 (5) "Department" means the department of agriculture,
6 provided for in 2-15-3001.7 (6) "Equipment" means hives, supers, frames, veils,
8 gloves, or any apparatus, tools, machines, or other devices
9 used in the handling and manipulation of bees, honey, wax,
10 and hives and includes containers of honey and wax ~~which may~~
11 ~~be used~~ in an apiary or in transporting bees and their
12 products and apiary supplies.13 (7) "Family unit" means two or more persons living
14 together or residing in the same dwelling, house, or other
15 place of residence.16 (8) "General apiary" means ~~any an~~ apiary other than a
17 pollination apiary, landowner apiary, or hobbyist apiary.18 (9) "Hive" means a frame hive, box hive, box, barrel,
19 log gum, skep, or other receptacle or container or a part of
20 a container, natural or artificial, ~~which may be~~ used as a
21 domicile for bees.22 (10) "Hobbyist apiary" means an apiary owned by a
23 hobbyist beekeeper.24 (11) "Hobbyist beekeeper" means a person who owns a
25 total of no more than five hives.

1 (12) "Landowner" means the person who has the actual use
 2 and exclusive possession of the land upon which a landowner
 3 apiary is to be registered. However, a person leasing or
 4 renting land for the primary purpose of locating or
 5 establishing an apiary thereon is not considered a
 6 landowner.

7 (13) "Landowner apiary" means an apiary owned by a
 8 landowner as defined in this section.

9 (14) "Persons" means individuals, associations,
 10 partnerships, or corporations.

11 (15) "Pest" means the African honeybee (*Apis mellifera*
 12 *scutellata*) and those honeybees Africanized by interbreeding
 13 with the African honeybee, as identified by rule of the
 14 department.

15 (16) "Pollination apiary" means an apiary operated for
 16 pollination of a commercial seed, fruit, or other commercial
 17 agricultural product as provided in 80-6-112.

18 (17) "Queen apiary" means an apiary or premises in which
 19 queen bees are reared or kept for sale or gift."

20 **Section 2.** Section 80-6-201, MCA, is amended to read:

21 **"80-6-201. Apiaries -- powers and duties of the**
 22 **department.** (1) To prevent the spread of pests and
 23 contagious and infectious disease among bees and apiaries,
 24 the department may:

25 (a) order the transfer of colonies of bees from hives

1 or containers which that cannot be properly examined for
 2 brood or other diseases to other hives or containers;

3 (b) order disinfection of any bee, beehive, brood comb,
 4 or any other equipment which that is infected or
 5 contaminated with disease or pests and burn any infected or
 6 contaminated bee, beehive, brood comb, or any other
 7 equipment if, in its judgment, disinfection will not remove
 8 the infection or contamination. Before burning any property,
 9 the department shall give the owner or person in charge a
 10 written notice at least 5 days before the date on-which the
 11 property will be burned. The notice shall must be given by
 12 certified mail or personal service upon the owner or person
 13 in charge of the property.

14 (c) quarantine any apiary where pests, foulbrood, or
 15 any contagious or infectious diseases are present and,
 16 during the quarantine, prevent the removal from the apiary
 17 of any bees or equipment except under a special permit
 18 issued by the department permitting the removal under
 19 conditions prescribed by it. A person may not sell or offer
 20 for sale any apiary, bees, or equipment which--are under
 21 quarantine unless a permit authorizing the sale or removal
 22 is issued by the department. Written notice of quarantine
 23 shall must be posted by the department, owner, or person in
 24 charge at the quarantined apiary at a conspicuous place, and
 25 a copy shall must be personally served or sent by certified

1 mail to the owner of the apiary or person in charge. The
2 quarantine continues in effect until it is ordered removed
3 and a copy of the removal order served in the same manner.

4 (d) establish by rule interior and exterior quarantines
5 to prevent the entry or spread of diseases or pests which
6 that are not known to occur in Montana;

7 (e) inspect any-apiary apiaries, hives, equipment, or
8 premises for the presence of disease or pests;

9 (f) promulgate and enforce rules adopted pursuant to
10 parts 1 through 3.

11 (2) Any A person failing to comply with a rule, order,
12 or provision of a quarantine pursuant to this section is
13 subject to penalties provided for in 80-6-303.

14 (3) The department may provide disease and pest
15 inspection, sampling, and laboratory analysis services for a
16 fee. The department shall adopt rules setting the fee
17 commensurate with costs and establishing procedures for
18 sampling and analysis.

19 (4) The department may enter into agreements with the
20 United States department of agriculture, other federal
21 agencies, other states, municipal authorities, and
22 individual Montana beekeepers in carrying out the provisions
23 of this part."

24 **Section 3.** Section 80-6-202, MCA, is amended to read:

25 "80-6-202. Inspection of bees or used beekeeping

1 equipment transported interstate. (1) A person may not
2 transport or bring into the state any bees or used
3 beekeeping equipment or containers, including honey to be
4 extracted, unless it-is under a compliance agreement or
5 certified and duly marked as being apparently pest- and
6 disease-free by an official responsible for apiary
7 regulations of the state from which it-is they are being
8 moved. The department ~~shall~~ must be advised in advance of
9 the date of entry and the destination of the bees or
10 material. Used equipment or bees transported into the state
11 may be quarantined by the department, in accordance with
12 80-6-201(1)(c), from the time it-enters they enter the state
13 until it-has they have been inspected and found to be
14 apparently free of pests and diseases or until it-has they
15 have been in use while under quarantine for a minimum of 90
16 days and at least until the following July 1. The beekeeping
17 materials are also subject to quarantine as provided in this
18 section. The department may also inspect and certify as
19 being apparently pest- and disease-free bees or beekeeping
20 equipment ~~which-is~~ to be transported from Montana to a state
21 which that requires an inspection in the state of origin.

22 (2) (a) The costs of making the inspections provided
23 for in subsection (1) ~~shall~~ must be paid in advance by the
24 owner of the bees or equipment ~~and shall~~.

25 (b) Inspection fees for persons without a valid Montana

1 compliance agreement must include:
 2 (i) a per diem pursuant to Title 2, chapter 18, part
 3 57;
 4 (ii) necessary traveling expenses;
 5 (iii) an hourly rate established by department rule; and
 6 (iv) a fee of \$50 for the issuance of a certificate of
 7 health.
 8 (c) Persons transporting bees interstate with a valid
 9 Montana compliance agreement shall pay inspection fees that
 10 include:
 11 (i) per diem pursuant to Title 2, chapter 18, part 5;
 12 (ii) necessary traveling expenses; and
 13 (iii) a fee of \$50 for the issuance of a certificate of
 14 health.
 15 (d) If inspection by an official of any other state is
 16 considered insufficient for the protection of the Montana
 17 bee industry by the department, the department shall so
 18 state by public statement. Importation of bees or beekeeping
 19 materials, including honey for extracting, from that other
 20 state shall must be denied unless the materials, bees, or
 21 honey are is first inspected by the department and there is
 22 obtained from it a certificate of inspection showing that
 23 the materials, bees, or honey are is apparently free from
 24 pests and contagious or infectious disease. The costs of
 25 making the inspection shall must be paid by the person

1 requesting it, and inspection may be made at any point
 2 outside this state convenient to the person making the
 3 inspection. The department may require that the costs of
 4 making the inspection be paid in advance, and the costs
 5 shall must include:
 6 (i) per diem pursuant to Title 2, chapter 18, part 57;
 7 (ii) necessary traveling expenses;
 8 (iii) an hourly rate established by department rule; and
 9 (iv) a fee of \$50 for the issuance of the certificate of
 10 inspection."
 11 NEW SECTION. Section 4. Severability. If a part of
 12 [this act] is invalid, all valid parts that are severable
 13 from the invalid part remain in effect. If a part of [this
 14 act] is invalid in one or more of its applications, the part
 15 remains in effect in all valid applications that are
 16 severable from the invalid applications.
 17 NEW SECTION. Section 5. Effective date. [This act] is
 18 effective on passage and approval.

STATE OF MONTANA - FISCAL NOTE

Form BD-1

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0066, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: The proposed bill: 1) Includes bee parasites in the definition of bee diseases; 2) revises the procedures related to inspection of bees; 3) allows the Department of Agriculture to establish an hourly rate for inspection fees in addition to present inspection fees; and 4) allows agreements between the department and other states, agencies, and individuals to carry out Montana bee policy.

ASSUMPTIONS:

1. Apiary inspection fees revenue estimates are based on FY90 actual.
2. The hourly inspection fee will be \$20 and about 40 beekeepers will be inspected an average of 16 hours each to qualify them for a compliance agreement. (Revenue: 40 beekeepers x 16 hours = 640 hrs. x \$20/hr. inspection fee = \$12,800.)
3. The hourly inspection fee revenue estimate for FY93 decreases due to the fact that approximately 80 percent of the 40 commercial beekeepers are assumed to qualify for compliance agreements in FY92 and, therefore, not need to pay the hourly rate in FY93. An estimated eight beekeepers will still be required to pay the hourly inspection fee in FY93.
4. Current law funding estimates are based on FY91 appropriations.
5. Proposed law expenditures are based, first, on adding 0.33 FTE Agricultural Inspector Technician (Grade 7) in FY92 to conduct the additional apiary inspections required to qualify beekeepers for compliance agreements. The FTE is not continued in FY93 because most beekeepers will have qualified for compliance agreements. (Personal service expenditure increase - 640 hours inspection + 60 hours. Travel = 700 hours x \$6.627 hourly wage = \$4,639.) Second, the FY93 operating expenses increase is calculated as follows: Travel - 2,000 miles/month x 4 months = 8,000 miles x \$.26/mile \$,080 + \$405 per diem + \$499.20 lodging = \$2,984.20. Some FY93 expenses are projected for random inspections.
6. Agricultural inspection fees are all deposited to the general fund.

FISCAL IMPACT: Department of Agriculture, Plant Industry Division

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
FTE	0.00	0.33	0.33	0.00	0.00	0.00
Personal Services	0	4,639	4,639	0	0	0
Operating Costs	0	2,984	2,984	0	1,520	1,520
Total	0	7,623	7,623	0	1,520	1,520
<u>Funding:</u>						
General Fund (01)	0	7,623	7,623	0	1,520	1,520
<u>Revenues:</u>						
Apiary Inspection Fees (01)	2,393	7,500	5,107	2,293	5,250	2,957
Apiary Hourly Fees	0	12,800	12,800	0	2,560	2,560
Net Increase to General Fund			10,284			3,897

Rod Sundsted 1-8-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Joe Barnett 1/8/91
 JOE BARNETT, PRIMARY SPONSOR DATE

Fiscal Note for HB0066, as introduced

HB66

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
AND IRRIGATION

HOUSE BILL NO. 66

INTRODUCED BY BARNETT

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(3) "Bees" means any stage of the bees in the genus Apis.

(4) "Colony" means the hive and all equipment used in connection with the hive.

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(6) "Equipment" means hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives and includes containers of honey and wax which may be used in an apiary or in transporting bees and their products and apiary supplies.

(7) "Family unit" means two or more persons living together or residing in the same dwelling, house, or other place of residence.

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 2 and exclusive possession of the land upon which a landowner
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 15 any contagious or infectious diseases are present and,
 16 during the quarantine, prevent the removal from the apiary
 17 of any bees or equipment except under a special permit
 18 issued by the department permitting the removal under
 19 conditions prescribed by it. A person may not sell or offer
 20 for sale any apiary, bees, or equipment which--are under
 21 quarantine unless a permit authorizing the sale or removal
 22 is issued by the department. Written notice of quarantine
 23 shall must be posted by the department, owner, or person in
 24 charge at the quarantined apiary at a conspicuous place, and
 25 a copy shall must be personally served or sent by certified

1 mail to the owner of the apiary or person in charge. The
2 quarantine continues in effect until it is ordered removed
3 and a copy of the removal order served in the same manner.

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5 to prevent the entry or spread of diseases or pests which
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20 United States department of agriculture, other federal
21 agencies, other states, municipal authorities, and
22 individual Montana beekeepers in carrying out the provisions
23 of this part."

24 **Section 3.** Section 80-6-202, MCA, is amended to read:

25 "80-6-202. Inspection of bees or used beekeeping

1 **equipment transported interstate.** (1) A person may not
2 transport or bring into the state any bees or used
3 beekeeping equipment or containers, including honey to be
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7 regulations of the state from which ~~it-is~~ they are being
8 moved. The department ~~shall~~ must be advised in advance of
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10 material. Used equipment or bees transported into the state
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12 80-6-201(1)(c), from the time ~~it-enters~~ they enter the state
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15 have been in use while under quarantine for a minimum of 90
16 days and at least until the following July 1. The beekeeping
17 materials are also subject to quarantine as provided in this
18 section. The department may also inspect and certify as
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21 which that requires an inspection in the state of origin.

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23 for in subsection (1) ~~shall~~ must be paid in advance by the
24 owner of the bees or equipment and ~~shall~~.

25 (b) Inspection fees for persons without a valid Montana

1 compliance agreement must include:

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3 57;

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and will not be reprinted. Please
refer to yellow copy for complete
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6 contaminated bee, beehive, brood comb, or any other
7 equipment if, in its judgment, disinfection will not remove
8 the infection or contamination. Before burning any property,
9 the department shall give the owner or person in charge a
10 written notice at least 5 days before the date ~~on-which~~ the
11 property will be burned. The notice ~~shall~~ must be given by
12 certified mail or personal service upon the owner or person
13 in charge of the property.

14 (c) quarantine any apiary where pests, foulbrood, or
15 any contagious or infectious diseases are present and,
16 during the quarantine, prevent the removal from the apiary
17 of any bees or equipment except under a special permit
18 issued by the department permitting the removal under
19 conditions prescribed by it. A person may not sell or offer
20 for sale any apiary, bees, or equipment ~~which--are~~ under
21 quarantine unless a permit authorizing the sale or removal
22 is issued by the department. Written notice of quarantine
23 ~~shall~~ must be posted by the department, owner, or person in
24 charge at the quarantined apiary at a conspicuous place, and
25 a copy ~~shall~~ must be personally served or sent by certified

1 mail to the owner of the apiary or person in charge. The
2 quarantine continues in effect until it is ordered removed
3 and a copy of the removal order served in the same manner.

4 (d) establish by rule interior and exterior quarantines
5 to prevent the entry or spread of diseases or pests which
6 that are not known to occur in Montana;

7 (e) inspect any-apiary apiaries, hives, equipment, or
8 premises for the presence of disease or pests;

9 (f) promulgate and enforce rules adopted pursuant to
10 parts 1 through 3.

11 (2) Any A person failing to comply with a rule, order,
12 or provision of a quarantine pursuant to this section is
13 subject to penalties provided for in 80-6-303.

14 (3) The department may provide disease and pest
15 inspection, sampling, and laboratory analysis services for a
16 fee. The department shall adopt rules setting the fee
17 commensurate with costs and establishing procedures for
18 sampling and analysis.

19 (4) The department may enter into agreements with the
20 United States department of agriculture, other federal
21 agencies, other states, municipal authorities, and
22 individual Montana beekeepers in carrying out the provisions
23 of this part."

24 **Section 3.** Section 80-6-202, MCA, is amended to read:

25 "80-6-202. Inspection of bees or used beekeeping

1 equipment transported interstate. (1) A person may not
2 transport or bring into the state any bees or used
3 beekeeping equipment or containers, including honey to be
4 extracted, unless ~~it-is~~ under a compliance agreement or
5 certified and duly marked as being apparently pest- and
6 disease-free by an official responsible for apiary
7 regulations of the state from which ~~it-is~~ they are being
8 moved. The department ~~shall~~ must be advised in advance of
9 the date of entry and the destination of the bees or
10 material. Used equipment or bees transported into the state
11 may be quarantined by the department, in accordance with
12 80-6-201(1)(c), from the time ~~it-enters~~ they enter the state
13 until ~~it-has~~ they have been inspected and found to be
14 apparently free of pests and diseases or until ~~it-has~~ they
15 have been in use while under quarantine for a minimum of 90
16 days and at least until the following July 1. The beekeeping
17 materials are also subject to quarantine as provided in this
18 section. The department may also inspect and certify as
19 being apparently pest- and disease-free bees or beekeeping
20 equipment ~~which-is~~ to be transported from Montana to a state
21 which that requires an inspection in the state of origin.

22 (2) (a) The costs of making the inspections provided
23 for in subsection (1) ~~shall~~ must be paid in advance by the
24 owner of the bees or equipment ~~and shall~~.

25 (b) Inspection fees for persons without a valid Montana

1 compliance agreement must include:

2 (i) a per diem pursuant to Title 2, chapter 18, part

3 57i

4 (ii) necessary traveling expenses;

5 (iii) an hourly rate established by department rule; and

6 (iv) a fee of \$50 for the issuance of a certificate of

7 health.

8 (c) Persons transporting bees interstate with a valid

9 Montana compliance agreement shall pay inspection fees that

10 include:

11 (i) per diem pursuant to Title 2, chapter 18, part 5;

12 (ii) necessary traveling expenses; and

13 (iii) a fee of \$50 for the issuance of a certificate of

14 health.

15 (d) If inspection by an official of any other state is

16 considered insufficient for the protection of the Montana

17 bee industry by the department, the department shall so

18 state by public statement. Importation of bees or beekeeping

19 materials, including honey for extracting, from that other

20 state ~~shall must~~ be denied unless the materials, bees, or

21 honey ~~are is~~ first inspected by the department and there is

22 obtained from it a certificate of inspection showing that

23 the materials, bees, or honey ~~are is~~ apparently free from

24 pests and contagious or infectious disease. The costs of

25 making the inspection ~~shall must~~ be paid by the person

1 requesting it, and inspection may be made at any point

2 outside this state convenient to the person making the

3 inspection. The department may require that the costs of

4 making the inspection be paid in advance, and the costs

5 ~~shall must~~ include:

6 (i) per diem pursuant to Title 2, chapter 18, part 57i

7 (ii) necessary traveling expenses;

8 (iii) an hourly rate established by department rule; and

9 (iv) a fee of \$50 for the issuance of the certificate of

10 inspection."

11 NEW SECTION. Section 4. Severability. If a part of

12 [this act] is invalid, all valid parts that are severable

13 from the invalid part remain in effect. If a part of [this

14 act] is invalid in one or more of its applications, the part

15 remains in effect in all valid applications that are

16 severable from the invalid applications.

17 NEW SECTION. Section 5. Effective date. [This act] is

18 effective on passage and approval.

-End-