

THE MINUTES OF THE MEETING OF THE AGRICULTURE COMMITTEE
February 9, 1981

The meeting was called to order by CHAIRMAN SMITH of February 9, 1981 at 12:30 p.m. in room 431 of the Capitol.

Roll call was taken and all members were present but REPRESENTATIVE RYAN. REPRESENTATIVE BRIGGS, REPRESENTATIVE McLANE and REPRESENTATIVE MANUEL were excused.

HOUSE BILL 524 was introduced by Sponsor, REPRESENTATIVE HURWITZ. H.B. 524 being "AN ACT TO REMOVE SEED POTATO PRODUCTS FROM THE PRODUCE WHOLESALE LICENSING PROVISIONS AND THE SEED DEALER LICENSING PROVISIONS: AND AMENDING SECTIONS 80-3-601 AND 80-5-201, MCA". (EXHIBIT A)

REPRESENTATIVE HURWITZ said that this is a government de-regulation bill. This will have an effect on the seed potato sellers, brokers, dealers and agents; and second will effect both seed buyers and seed producers. Apparently the law requires the following: All persons engaged in buying or selling natural farm products wholesale, to be licensed with the State Department of Agriculture. The fee for each license is \$100 per year, which is deposited in the general fund, also, if the farm is not listed, \$1000 is required for licensing. Extensive record keeping is also required.

The original law was enacted in 1933, revised in 1935, and again in 1974 and again in 1977. Now under title 80, chapter 5, part 2, there is another act that states, that all persons and firms acting as seed buyers, dealers, labelers and sellers are also required to be licensed under the State Department of Agriculture. Cost is limited to no more than \$20 per year in one place, and \$50 per year in another. The state has wide discretion in bonding and insurance requirements for each licensee.

Because of the confusion in the second law, REPRESENTATIVE HURWITZ said he talked to the Secretary of Agriculture, who has no strong feelings about potatoes being removed from that law.

Besides two state laws, there is a federal law that costs \$145 a year, that licenses them under the Perishable Agriculture Commodities Act. Extensive record keeping, etc. is regulated by the USDA, however, bonding is not required for most regulated firms. The fiscal impact to the general fund is estimated to be \$100 to \$300 in revenues.

REPRESENTATIVE HURWITZ asked for the Committee's consideration of this bill as presented.

REPRESENTATIVE HURWITZ then introduced MICHAEL KOEHAKE of Townsend, Montana, the only man licensed to sell potatoes in the state of Montana

MICHAEL KOEHAKE stated that he grows seed potatoes, grain and livestock near Townsend with his brother and father. They have formed a separate farm-company corporation to market seed potatoes for their farm and other Montana farmers. He has sold to Idaho, Washington, Oregon and this year to the People of China.

MR. KOEHAKE said he did not believe he should have to buy a license. That other states do not require their producers to have a license. He stated that in order for him to sell his seed potatoes here or in any other state he had to have a license. He also said that government does not require him to be bonded if he is creditable.

Net proceeds must be sent back to the growers within 5 days and if he fails to do this they can file a complaint against him and then the government will demand him to be bonded. Mr. Koehake said the lawyer he retains even conflicted in his opinion with the requirements set up to him regarding licensing.

There being no other proponents, and no opponents, DISCUSSION was called for.

REPRESENTATIVE UNDERDAL asked if they treated their potatoes.

MR. KOEHAKE said that they do not and that all their potatoes have been sold as seed potatoes with the exception of one truck load that was sold as bakery in Texas. In warm states they treat them so they will not spoil.

REPRESENTATIVE SCHULTZ asked if this bill would eliminate any safety factors in regards to the purchasers of seed potatoes if these two licenses are repealed.

MR. KOEHAKE said there are enough laws that cover them, and if the USDA would revoke it, to get his license back he would have to have an insurance bond equal to the amount of his volume, which this year would be over \$3000,000. Bonding companies do not bond for this type of production easily.

MR. KOEHAKE said that the State of Montana is self proficient with a program at MSU. Seed potatoes are tested there and returned to the producers.

REPRESENTATIVE ERNST asked about law suits, and was told that they are still having problems, and that this could possibly give them problems with the appropriation bill.

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MR. KOEHAKE also responded to REPRESENTATIVE UNDERDAL's question by saying that seed potatoes are not called "produce" but would be under the "seed act". He also remarked that the middleman does not have to have a license.

There being no more questions the meeting closed on this H.B. 524.

The meeting went into Executive Session.

REPRESENTATIVE CONROY made a motion that this bill Do Pass. Question was asked. All voted DO PASS except REPRESENTATIVE JENSEN who recorded NO.

The meeting adjourned at 1:30 p.m.



CARL SMITH, CHAIRMAN

lmw

Ag

COMMITTEE

HB 524

9 Feb. 81

NSOR

Michael Koehn	Mountain Seed Co.	Mountain	✓
	Townsend, MT	Seed Seed Co.	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1 HOUSE BILL NO. 524
 2 INTRODUCED BY Shawitz, Steven Schultz

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE SEED POTATO
 5 PRODUCTS FROM THE PRODUCE WHOLESALE LICENSING PROVISIONS AND
 6 THE SEED DEALER LICENSING PROVISIONS; AND AMENDING SECTIONS
 7 80-3-601 AND 80-5-201, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 80-3-601, MCA, is amended to read:
 11 "80-3-601. Definitions. Unless the context requires
 12 otherwise, in this part the following definitions apply:

13 (1) "Dealer at wholesale" means a person who buys to
 14 sell at wholesale or contracts to buy to sell at wholesale
 15 or who handles at wholesale on account of or as agent for
 16 another.

17 (2) "Person" means an individual, group of persons,
 18 exchange, firm, partnership, corporation, or association.

19 (3) "Produce" means the natural products of the farm
 20 and includes but is not limited to natural products of the
 21 orchard, vineyard, garden, and apiary, raw and manufactured
 22 (except grains, dairy products, livestock, poultry, and
 23 poultry products), when handled for the purpose of resale.
 24 ~~The term "produce" does not include seed potatoes."~~

25 Section 2. Section 80-5-201, MCA, is amended to read:

1 "80-5-201. Definitions. When used in this part, the
 2 following definitions apply:

3 (1) "Agricultural seed" means the seeds of grass,
 4 forage, cereal, and fiber crops and any other kinds of seeds
 5 commonly recognized within this state as agricultural seeds
 6 and includes lawn seeds and mixtures of seeds ~~but does not~~
 7 ~~include seed potatoes.~~

8 (2) "Bin-run seed sales from one farmer to another
 9 farmer" means buyer beware.

10 (3) "Montana certified seed grower" means a member of
 11 an authorized Montana seed certifying agency who has
 12 consented to produce seed under the rules for certified
 13 classes of seed, with respect to the maintenance of genetic
 14 purity and variety identity, set forth by the certifying
 15 agency.

16 (4) "Person" means any individual, firm, partnership,
 17 corporation, or association.

18 (5) "Public agricultural seed warehouse" means any
 19 warehouse or structure in which agricultural seed is
 20 received from the public for storage, assembling, or
 21 cleaning.

22 (6) "Screening" means chaff, sterile florets, immature
 23 seed, weed seed, inert matter, and any other materials
 24 removed from seed by any kind of cleaning or processing.

25 (7) "Seed buyer" means any person engaged in the

1 business of buying agricultural seed for shipment, cleaning,
2 processing, or resale and who does not own, control, or
3 operate a public agricultural seed warehouse. Any
4 individual employed by a seed buyer is not included in this
5 term.

6 (8) "Seed dealer" means any person who offers for
7 sale, sells, or barbers agricultural seeds to the ultimate
8 consumer.

9 (9) "Seed labeler" means any person affixing labels to
10 agricultural seeds with his name and address listed as
11 required in 80-5-102 when such seed is distributed in
12 Montana.

13 (10) "Seed processing plant" means any place of
14 business that repackages, cleans, blends, treats, or
15 otherwise manipulates agricultural seeds.

16 (11) "Seed warehouseman" means any person owning,
17 controlling, or operating a public agricultural seed
18 warehouse."

-End-

HOUSE BILL NO. 488

INTRODUCED BY

Jason Manuel

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE AMOUNT AND ALLOCATION OF THE WHEAT RESEARCH AND MARKETING ASSESSMENT; AMENDING SECTION 80-11-206, MCA; REPEALING SECTIONS 80-11-221 THROUGH 80-11-223, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 80-11-206, MCA, is amended to read:

"80-11-206. Annual assessment on wheat and barley grown. (1) There is hereby levied an annual assessment of 2-1/2-mills-per-bushel-(except-for-the-fiscal-years--ending on--June--30--1988-through-1993--when not more than 5 mills per bushel may-be-levied) upon all wheat grown and 5--mills per--hundredweight--(except--for--the-fiscal-years--ending-on June-30--1988-through-1993--when not more than 10 mills per hundredweight may--be--levied) on all barley grown in the state of Montana and sold through commercial channels. The assessment is hereby levied and imposed on each grower of wheat or barley in the state of Montana:

(a) in the case of sale of wheat or barley, at the time of any sale of wheat or barley by a grower, and shall be collected by the first purchaser of the wheat or barley

from the grower at the time of each settlement for wheat or barley purchased; or

(b) in the case of a pledge or mortgage of wheat or barley as security for a loan under any federal price support program, the assessment shall be collected by deducting the amount thereof from the proceeds of such loan at the time the loan is made by the agency or person making the loan.

(2) The assessment levied under the provisions of this part shall be deducted and collected as provided by this part, whether such wheat or barley is stored in this or any other state. The assessment shall attach to each transaction, but no grower shall be subject to assessment more than once irrespective of the number of times it shall be the subject of a sale, pledge, mortgage, or other transaction, the assessment being imposed and attaching on the initial sale, pledge, mortgage, or other transaction in which the wheat or barley grower parts with title to the wheat or barley, or creates some interest therein in a pledge, mortgage, or other person."

~~NEW SECTION.~~ Section 2. Determination of amount and allocation of assessment. (1) The committee shall set the amount of the assessment each year in accordance with 80-11-206.

(2) The committee has exclusive authority to allocate

1 assessment funds. Allocation of administrative costs by the
2 committee for services provided by the department of
3 agriculture must be based on an itemized and justified
4 estimate or billing. Estimates or billings must be based on
5 actual and reasonable costs of the department of agriculture
6 incurred in performance of its administrative duties for the
7 committee.

8 Section 3. Codification instruction. Section 2 is
9 intended to be codified as an integral part of Title 80,
10 chapter 11, part 2, and the provisions of Title 80, chapter
11 11, part 2, apply to section 2.

12 Section 4. Repealer. Sections 80-11-221 through
13 80-11-223, MCA, are repealed.

14 Section 5. Effective date. This act is effective on
15 July 1, 1981.

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