

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

February 6, 1985

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building, at 1:10 p.m., by Chairman Boylan.

ROLL CALL: All members present.

HOUSE BILL 148: Representative Rex Manuel, HD 11, asked the committee to turn to page three for the changes. The old law had 100 training credits. The problem is through the Department of Agriculture having the right to write the regulations. This bill spells out how someone can recertify for a license for pesticides. The farmers and ranchers will know exactly what is expected of them. With the Department of Agriculture having the right to change regulations each year, it could be longer, shorter, or anything they might do. With the present regulations, it would be a three day training period of three hours at a time. Now the farmer can come in and get recertified without making a lot of trips. After the pesticide law was passed, the money stayed in the Department of Agriculture and there isn't money for the county for schools and is an added cost to the county if the training lasts for three or more days. The paper work is tremendous. This way it is a one day shot. There has never, and he emphasized never, been a problem with the farm applicator. It has been in the commercial areas. The bill only deals with the farmer and not the commercial end. In the Letter of Intent starting on line 13, it requires training either in a one day segment or an extended period, giving the farmer a choice.

PROPOSERS: Ross Fitzgerald, Vice President of the Montana Grain Growers Association, read his testimony and asked committee support for the bill. Exhibit #1.

George Ochenski, Environmental Information Center, said they were cautious proponents of the bill. They were concerned where this bill may interact with HB 512. They opposed that bill because a 6 hour period every 5 years may be sufficient for a private applicator but the liabilities incurred by allowing the private applicator to spray public right of ways, in the event of overspray or accidental spills, were too great a risk. He asked if the committee passed this bill to make a provision that it does not apply to HB 512 in allowing these people spray public lands. Testimony attached, Exhibit #2. Exhibit #3 pertains to testimony against HB 512.

OPPOSERS: None

Committee questions: Senator Hammond to Ochenski - If the private applicator isn't allowed to spray in public right of ways, who will spray? Ochenski - Coming up is the Obnoxious Plant Management Act in the House and that completely repeals

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the County Weed Control Act and makes provision for the county to control those public rights of way. He suggested HB 512 be tabled if the Obnoxious Plant Management Act is passed. It is the county's job to spray the public rights of way and giving the private applicator the right to do that would make the insurance companies less and less willing to insure against these spills.

Severson to Ochenski - The Department of Agriculture owns the ground for the most part. But, if you are a private applicator trying to control weeds, it is useless if you cannot control weeds along the railroads. Ochenski - The insurance companies are reluctant to insure counties for the broad spectrum of liabilities that occur if there is a spill into an irrigation ditch and it goes down into a public waterway. There are some very extensive liabilities involved.

Mr. Gingery, Department of Agriculture - To clarify spraying along right of ways; under the current pesticide law, if you have a general use product, you are allowed to use it on your own land or your neighbor's land. They recommend an agreement be reached with the county. On restricted products, you can only use this on your own land. You are excluded from going out on right a ways as a private applicator.

Senator Bengtson - Regarding training, you went from 100 points to a 6 hour training program. Has that program been revamped? Is there any way to check whether I passed the course? Another section says you can take a one day segment or take it over an extended period of time. Manuel - That is the purpose of the bill. It does give an option. There is a test. Right now it would be easier to take the course and take the test than try to get recertified. The extension agent runs the course and the Department of Agriculture handles the license. Originally they had a 4 hour crash course with a test and if you passed it you got your license. It takes longer to recertify than it takes to get your first license. The Department can make it as long as they wanted to. This will straighten it out so that the farmer knows what he has to do and how long it will take to get the license or get recertified. It deals with education.

Senator Galt - What happens when a county doesn't have an extension agent. Manuel - They go to the neighboring county.

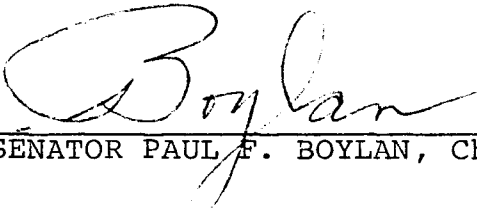
Senator Lybeck - If you are starting out and never had any instruction or the test, what are the requirements? Gingery - The initial certification process is you have two options. You can come in and take a training program from the extension agent and then have an ungraded examination or take an open book test which takes about 2 hours. Then you would fall into the requalification situation.

Hearing closed on HB 148.

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DISPOSITION OF HB 148: Senator Aklestad moved HB 148 BE
CONCURRED IN. Motion carried unanimously. Senator Lybeck
will carry the bill on the Senate floor.

There being no further business the meeting adjourned.



SENATOR PAUL F. BOYLAN, Chairman

ROLL CALL

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/6/85

SENATE
SEAT
#

	NAME	PRESENT	ABSENT	EXCUSED
1	SENATOR GARY AKLESTAD	✓		
27	SENATOR ESTHER BENGSTON	✓		
35	SENATOR JACK GALT	✓		
34	SENATOR H. W. (SWEDE) HAMMOND	✓		
10	SENATOR ALLEN KOLSTAD	✓		
38	SENATOR LEO LANE	✓		
48	SENATOR RAY LYBECK	✓		
31	SENATOR ELMER SEVERSON	✓		
39	SENATOR BOB WILLIAMS	✓		
29	SENATOR MAX CONOVER, V. CHMN.	✓		
50	SENATOR PAUL BOYLAN, CHAIRMAN	✓		

Each day attach to minutes.

DATE Feb 6, 1985

COMMITTEE ON AGRICULTURE

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Ralph Peck	Mt Department of Ag	HB 148		
Bob Stephens	Mt Grain Growers	148	<input checked="" type="checkbox"/>	
Ross H. Fitzgerald	M.C. O. A.	148	<input checked="" type="checkbox"/>	
George Ochanski	ENV. INK. CENTER	148		<input checked="" type="checkbox"/>
Mamie Maufen	First Interstate Bank	129	<input checked="" type="checkbox"/>	
Jayne Spruch	WIFE			
Lavina Lubinus	WIFE			

(Please leave prepared statement with ...)

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Exhibit # 1
HB 148



P.O. Box 1165 • 750 6th Street S.W. • Great Falls, Montana 59403 • 406/761-4596

TESTIMONY BEFORE HOUSE AG COMMITTEE ON BILL 148

Mr. Chairman, Members of the Committee:

For the record, my name is Ross Fitzgerald. I am a small grain producer from Power, Montana. I am also Vice President of the Montana Grain Growers Association. I would like to testify in support of House Bill 148, which would revise the pesticide training requirements for farm applicators.

The process of training and certifying pesticide applicators, as a whole has worked out well, except in the area of recertification points. That process has been somewhat cumbersome. It has been costly both in terms of the administration and the producer. In many cases it has been logistically impossible to get required number of points at the right time.

This bill addresses this problem. Allowing a producer to meet the recertification requirements by attending one update meeting imposes less burden on both the producer and the county. Not only is it easier and less expensive for a producer to attend one meeting, but it is less costly for counties, as they must provide the extension personnel for these meetings.

There also appears to be no reason that all of the pertinent information cannot be provided to applicators at one meeting. Information on new developments in safety, application and chemicals can certainly be given in one session.

It should also be pointed out that MCGA feels the chemical industry is taking a bigger role in promoting the safe use of their chemicals. They have a stake in seeing that their products are applied correctly and safely, and are assuming more and more of that responsibility.

In the interest of economy and efficiency, without the sacrifice of any safety, the Montana Grain Growers Association supports the passage of House Bill 148.

NAME: GEORGE OCHENSKI DATE: 2/6/85

ADDRESS: P.O. Box 1184

PHONE: 443-2520

REPRESENTING WHOM? ENVIRONMENTAL INFO. CENTER

APPEARING ON WHICH PROPOSAL: HB 148

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

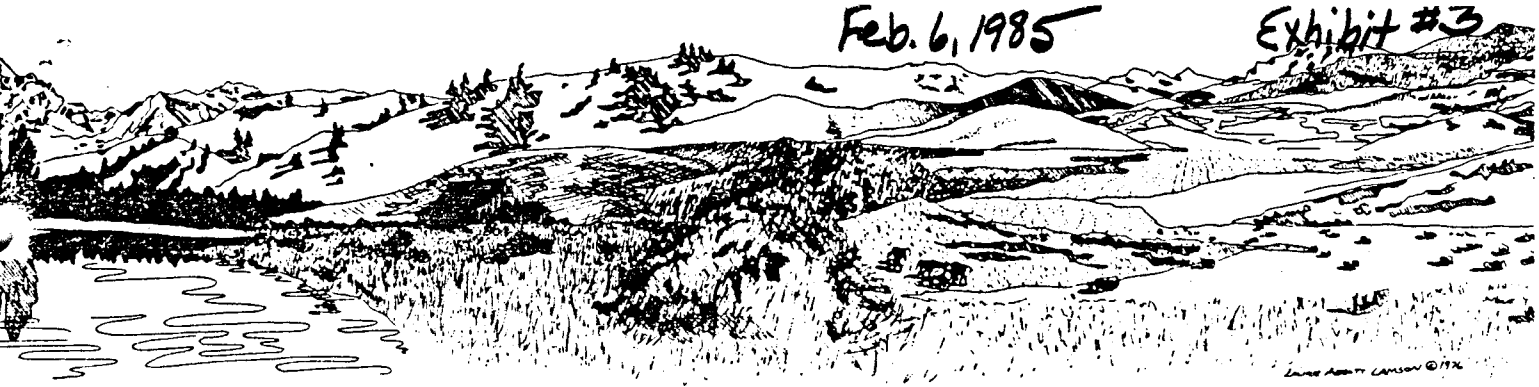
COMMENT: WE OFFER ONLY A CAUTIONARY NOTE
HERE CONCERNING THE POSSIBLE EFFECT
OF THIS BILL IN COMBINATION WITH
HB 512, WHICH WOULD GIVE PRIVATE
LANDOWNERS THE RIGHT TO CONTROL
WEEDS ON PUBLIC RIGHTS-OF-WAY.
OUR CONCERN IS THAT THE INTENT
OF THIS BILL IS TO RE-CERTIFY
PRIVATE APPLICATORS TO SPRAY THEIR
OWN PROPERTY. BECAUSE OF THE
GREAT POSSIBILITY OF ENORMOUS
LIABILITIES DUE TO ACCIDENT OR
OVERSPRAY, THESE REGS. ARE NOT

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SUFFICIENT TO ALLOW SPRAYING
ON PUBLIC LANDS.

Feb. 6, 1985

Exhibit #3



Laura Abbott Larson © 1976

The Montana Environmental Information Center Action Fund

February 4, 1985

• P.O. Box 1184, Helena, Montana 59624

(406)443-2520

Mr. Chairman and members of the Committee, for the record my name is George Ochenski and I represent the Environmental Information Center.

I stand in opposition to HB 512 today for the following reasons:

1. The Noxious Plant Management Act, which will be heard in the near future, would repeal the entire County Weed Control Act, to which this bill is a suggested amendment. In the interest of the Noxious Plant Management Act, which we support and believe is a more comprehensive solution to the weed control problem than existing statutes, I urge you to table HB 512.

2. While the Environmental Information Center fully realizes the need for control of noxious weeds in the State of Montana, we nonetheless remain fully cognizant of the extremely toxic nature of many of the herbicides used to accomplish this purpose. We support the establishment of the Noxious Weed Management Trust Fund as well as the Noxious Plant Management Act. However, our research indicates some serious potential legal problems with the provisions of HB 512. First and foremost among these is the problem of liability. At the present time, most counties are going through the renewal process for insurance coverage for weed control application. Enclosed please find the most recent pollution exclusion pertaining to liability coverage. Simply put, insurance companies are more and more reluctant to cover the broad spectrum of liabilities which may arise from the accidental spill or overspray of toxic herbicides. These liabilities can include serious damage to both natural resources, such as waterways, and private holdings, such as adjacent croplands.

We feel the risk of allowing private landowners to perform control work on public lands is just too high to condone.

The recent HB148, introduced by Rep. Manuel, revises the requalification training requirements for farm applicators of herbicides. We did not oppose this bill because it was clear that the recertification was intended for application to one's own properties, not to the public lands, or highway rights-of-way. If HB 512 was enacted, we could very well see people with only six hours of training every five years given a free hand to disperse extremely powerful herbicides into the general environment. The consequences are potentially too great to risk.

I urge you to either table HB 512 until the Noxious Plant Management Act has been heard, or kill it outright.

Thank you.



This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.
(The following information is required only when this endorsement is issued subsequent to preparation of policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by

(Authorized Representative)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

- BUSINESSOWNERS LIABILITY INSURANCE**
- COMPREHENSIVE GENERAL LIABILITY INSURANCE**
- COMPLETED OPERATIONS AND PRODUCTS LIABILITY INSURANCE**
- CONTRACTUAL LIABILITY INSURANCE**
- MANUFACTURERS AND CONTRACTORS LIABILITY INSURANCE**
- OWNERS, LANDLORDS AND TENANTS LIABILITY INSURANCE**
- SMP LIABILITY INSURANCE**
- STOREKEEPERS INSURANCE**

POLLUTION EXCLUSION

It is agreed that the exclusion relating to the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants is replaced by the following:

to **bodily injury or property damage** arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water; but this exclusion does not apply to **bodily injury or property damage** included within the **products hazard or the completed operations hazard** if the discharge, dispersal, release or escape originates away from premises owned by, rented or loaned to a named insured;

SOURCE:
REP. PAV HARBIN