

MINUTES OF THE MEETING  
AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

January 21, 1987

The meeting of the Agriculture, Livestock & Irrigation Committee was called to order by Chairman Duane W. Compton on January 21, 1987, at 1:00 p.m. in Room 317 of the State Capitol.

ROLL CALL: All members were present. Also present was Tom Gomez, Researcher.

HOUSE BILL NO. 184: Rep. Raymond J. Brandewie, District 49, sponsor, introduced HB 184 at the request of the Department of Agriculture. This bill requires the Department of Agriculture to establish fees for the inspection and certification of apples, especially in the Flathead Valley where very high quality McIntosh apples are grown. In order to make sales outside of Montana, the apples have to be inspected and certified to be free of diseases and that no disapproved chemicals have been sprayed on them. They are presently being inspected for in-state sales. New orchards are being planted to produce the high grade apples the Flathead Valley can grow. The growers already have the facilities to store and process apples for shipment. The producers will be responsible for the inspection fees. It will not cost the state anything. See Statement of Intent attached.

PROPONENTS: Ralph Peck, Deputy Director of the Department of Agriculture, supported HB 184.

OPPONENTS: - None

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 184: Rep. Bachini asked if the growers requested HB 184, and how do they feel about it. Rep. Brandewie advised that it is federal law that a state provides inspectors to inspect fruit before it leaves or enters any state. There already are inspectors in that area who inspect cherry, potatoes, Christmas trees, nursery stock, and other such crops for in-state and out-of-state sale. They are part-time employees and could be retained to inspect the apple crop since it is a month or so later.

Mr. Peck explained that the Plant Industry Division oversees the legal use of chemicals, and the inspectors would work directly with that Division and violation of chemical use

will be continually checked. Any violations can be traced to the violator through the Chemical Registry Division.

Rep. Bachini mentioned that a potentially dangerous chemical using the tradename of Alar cannot be washed off fruit, and it becomes worse when apples are cooked. He urged that Alar be watched very carefully. Mr. Peck said the EPA is reviewing that problem and he thought Alar would be removed from the list of approved chemicals.

Rep. Brandewie told Rep. Campbell that the inspection and certification fees would be approximately three cents a box. Rep. Jenkins would like to impose a fee that would only cover any expenses the Department of Agriculture would incur. Mr. Peck advised any fee would be only high enough to cover any expenses incurred with respect to the inspection and certification of apples. Any fees collected would go directly into a special apple inspection fund. There would be no need for start-up money since the Inspection and Certification Division in the Department already has manpower and equipment to do this.

A fiscal note is needed, but it has not been delivered to the committee as yet.

Rep. Brandewie closed asking that the committee not confuse HB 184 with pesticides which are controlled by the Plant Industry Division. If Alar is removed, nobody will be permitted to use it. The EPA takes random samples from shipments, and if there are problems, they can be traced to where they originated.

HOUSE BILL NO. 220: Rep. Gene DeMars, District 29, sponsor, and other representatives introduced HB 220 at the request of the Department of Agriculture. HB 220 would permit the Department of Agriculture to define, by rule, the noxious weed seeds that are prohibited or restricted in the seed labeling law, also any other weeds that become problems; and proceed to work for their eradication. HB 220 would allow the DOA to determine, by rule, which noxious and other troublesome weed seeds must be restricted and which are to be prohibited.

PROPOSERS: Mr. Ralph Peck, Deputy Director of the Department of Agriculture, supports HB 220. The counties requested this bill because they are concerned the noxious weed law passed last session did not conform to present laws. For example, spotted knapweed is allowed under the seed law, but is on the noxious weed list. If the law would allow the DOA to enforce by rule, they would be able to respond quickly and would not be forced to come to the legislature to

enforce eradication. Rules would be established by public hearings with the industry and interested parties.

OPPONENTS - None

QUESTIONS (OR DISCUSSION) ON HOUSE BILL 220: Mr. Oran Roy Bjornson, Administrator of the Plant Industry Division of the DOA, told Rep. Campbell that Baby's Breath seed got into the state and is considered to be a noxious plant, but it could not be listed as noxious because it is not in the statute. If there were rulemaking authority, determination could be made whether it could be considered noxious and placed on the proper list.

Mr. Peck said about 14-18 knapweed seeds are allowed per pound of seed. A lot of people would like to have no knapweed seeds be permitted in any seed supply. The DOA has not taken a position on whether to completely eliminate knapweed seeds from contaminating any seed supply. They want to know what the industry and other people want.

In answer to Rep. Patterson's question about an effective date, Mr. Peck said that once this becomes effective, they would be prepared to proceed since they are working on this now. There would be no lapse of time between present law and any new rules.

A new corrected Statement of Intent was handed to the members of the committee. See Exhibit 1.

Rep. Ellison was afraid this proposed rule might catch some certified seed dealers with their seed already to sell. Mr. Peck said they would have to work with that possibility when working with the seed industry to bring rules into effect. The rulemaking procedure would work in cooperation with the horticulture industry.

Rep. Patterson mentioned a lot of Montana weed laws had been rewritten in the 1985 legislative session regarding noxious weeds. Mr. Peck stated that presently a noxious weed could be on the grain seed list and also on the noxious weed list. You can plant it, but you can't grow it! This inconsistency would be corrected by going through the hearing process to establish rules. They hope to get the two statutes compatible.

Rep. Jenkins asked why the prohibited and restricted weed seed lists are being eliminated, but not the noxious weeds that are in the seed law. The lists should be reestablished. Mr. Peck said rulemaking authority would allow for consistency between the laws, and would give them the authority to respond to industry's demands without having to

wait two years for a change. Rep. Jenkins asked if there is a list of noxious weeds. Mr. Peck said HB 220 removes the list of noxious weeds; however, their office has a noxious weed list established by rulemaking.

HB 220 also removes the number of noxious weed seeds allowed in certified seed supplies. They are trying to make the law consistent throughout. Rep. Jenkins thought perhaps if no spotted knapweed seed were allowed in seed supplies thru statute, that would be better than it being prohibited only by rulemaking.

Rep. Rapp-Svrcek asked how the prohibition of noxious weeds would be reestablished. Mr. Peck said it would be done through the rulemaking procedure. A hearing would be held and rules adopted in accordance with the desires of persons attending the hearing. The rules could then be proposed, and if there were no complaints, those rules could be enforced. A weed could be added to or deleted from either the prohibited list or the restricted list by rulemaking authority. A whole list of noxious weed seeds could be ruled on at one hearing rather than having a hearing for each weed. That is the way it would be done by the Department Mr. Peck said. There would be no additional cost, and a fiscal note would not be needed since this is part of the present duties of his office.

Rep. DeMars closed.

EXECUTIVE SESSION:

HOUSE BILL NO. 220: Rep. Dorothy Cody moved that the Statement of Intent and HB 220 DO PASS. Rep. Rapp-Svrcek seconded the motion. The motion PASSED unanimously.

  
\_\_\_\_\_  
REP. DUANE W. COMPTON, CHAIRMAN



## STATEMENT OF INTENT

House Bill No. 220

1. Page 1, line 6.  
 Following: line 5  
 Strike: "88-5-101"  
 Insert: "section 1"

2. Page 1, line 12  
 Following: "that"  
 Strike: "the listed"

3. Page 2, line 1.  
 Following: "that"  
 Strike: "the listed"  
 Insert: "seed designated as"

4. Page 2, line 2.  
 Following: "seeds"  
 Insert: "under current statutes"  
 Following: "to"  
 Strike: "the"  
 Insert: "seed classified as"  
 Following: "noxious"  
 Strike: "weeds listed by"  
 Insert: "weed seeds under"

5. Page 2, line 3.  
 Following: "adopted"  
 Strike: "under the above mentioned statutes"  
 Insert: "by the department"  
 Following: "."  
 Strike: "The"  
 Insert: "However, the department shall include the seeds of leafy spurge and Russian knapweed in the prohibited noxious weed seeds category. In addition, the department shall designate the seeds of spotted knapweed and dyers woad as restricted noxious weed seeds. Thus, except as otherwise provided under this act, the"

7051g/L:JEA\WP:jj



# STANDING COMMITTEE REPORT

February 20

19 87

Mr. Speaker: We, the committee on AGRICULTURE, LIVESTOCK & IRRIGATION

report HOUSE BILL 220

do pass  be concurred in  as amended  
 do not pass  be not concurred in  statement of intent attached

## NOXIOUS WEED SEEDS DEFINED BY RULE

Be Amended as Follows:

REP. LOREN JENKINS, VICE Chairman

1. Title, line 3.

Following: line 2

Strike: line 3 in its entirety

2. Title, line 5.

Following: "AN ACT"

Insert: "TO GENERALLY REVISE THE AGRICULTURAL SEED LAWS;"

3. Title, line 6.

Following: "RULE"

Strike: "THE"

4. Title, line 8.

Following: " ; "

Strike: "AND"

Insert: "TO ESTABLISH CERTAIN LICENSING REQUIREMENTS;"

Following: "SECTIONS"

Strike: "80-5-101 AND"

Insert: "80-5-102 through"

Following: " ; "

Insert: "80-5-107 through 80-5-113, 80-5-202, 80-5-204, 80-5-205, and 80-5-207,"

Following: "MCA"

Insert: "; REPEALING SECTIONS 80-5-101, 80-5-106, 80-5-201, AND 80-5-203, MCA; AND PROVIDING EFFECTIVE DATES"

5. Pages 1 through 9.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and mixtures of seeds.

(2) "Approximate percentage" and "approximate number" mean the percentage or number with the variations above and below that

(CONTINUED)

Second reading copy ( Yellow )  
color

February 20

19 87

value as allowed according to the tolerance limits defined in the "rules for seed testing" adopted by the association of official seed analysts.

(3) "Bin-run seed sales" means seed sales from one farmer to another farmer with seeds sold "as is" without guarantee or analysis.

(4) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to generally by the seed certifying agencies described in subsection (4)(a).

(5) "Controlling the pollination" means to use a method of hybridization that will produce pure seed which is at least 75% hybrid seed. Hybrid designations must be treated as variety names.

(6) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under the name of flower seeds in this state.

(7) "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

(c) two or more selected clones, seed lines, varieties, or species.

(8) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs, and legumes.

(9) "Labeling" means to affix, before offering the seed for sale, on the exterior of the container in a conspicuous place a label written or printed in the English language that has not been altered, giving the information required under this chapter.

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

(11) "State of the state in which the seed was grown" means any of the several states of the United States or a foreign country.



.....February 20..... 19 37.....

(12) "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

(13) "Percentage of germination" means the percentage of seeds that show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the "rules for seed testing" adopted by the association of official seed analysts.

(14) "Percentage viability" means the percentage of live seed capable of producing a normal seedling under optimum growing conditions, after all forms of dormancy have been overcome, if present.

(15) "Person" means any individual, firm, partnership, corporation, or association.

(16) (a) "Prohibited noxious weed seeds" means the the seeds of perennial and other noxious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and that, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice. Prohibited noxious weed seeds include the seeds of:

- (i) leafy spurge (*Euphorbia esula*); and
- (ii) Russian knapweed (*Centaurea repens*).

(b) "Prohibited noxious weed seeds" includes the seeds or bulbets of any other plant designated as prohibited weed seeds under rules adopted by the department.

(17) "Protected variety" means a variety for which a certificate has been issued by the United States plant variety protection office or for which an application for protection has been filed granting the owner or his authorized agent exclusive rights in the sale and distribution of the variety.

(18) "Restricted noxious weed seeds" means the seeds and bulbets of any plant designated as restricted weed seeds under rules adopted by the department. The term includes the seeds of:

- (i) spotted knapweed (*Centaurea maculosa*); and
- (ii) dyers woad (*Isatis tinctoria*).

(19) "Screening" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed from seed by any kind of cleaning or conditioning.

(20) "Seed conditioning plant" means any place of business that repackages, conditions, blends, treats, or otherwise manipulates agricultural seeds.

(21) "Seed dealer" means any person who offers for sale, sells, or barter agricultural seeds.

(22) "Seed labeler" means any person affixing labels to agricultural seeds, with his name and address listed as required



February 20

19 87

in 89-5-102 when such seed is distributed in Montana.

(23) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade. The term includes furnishing agricultural seed to growers for the production of a crop on contract.

(24) "Vegetable seeds" means seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

(25) "Weed seeds" means the seeds or bulbets of all plants generally recognized as weeds within this state and includes noxious weed seeds.

Section 2. Section 89-5-102, MCA, is amended to read:

"89-5-102. Labeling of agricultural seeds. Any person offering for sale a package, parcel, or lot of agricultural seeds, as defined in 89-5-101 [section 1], that contains 1 pound or more of agricultural seeds, whether in package or in bulk, must have affixed to it a label specifying:

(1) a lot number or other distinguishing mark;

(2) kind. The name of each kind of seed present in excess of 5% shall be shown on the label and need not be accompanied by the word "kind". When two or more kinds of seed are named on the label, the name of each kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of 5% and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply to seed of the kind named.

(3) variety, as follows:

(a) the following kinds of agricultural seeds shall be labeled to show the variety name or the words "variety not stated":

alfalfa	oat
barley	pea, field
bean, field	rye
beet, field	safflower
brome, smooth	sorghum
clover, crimson	sorghum-sudan hybrid
clover, red	soybean
clover, white	sudan grass
corn, field	sunflower
corn, pop	trefoil, birdsfoot
fescue, tall	wheat, club
flax	wheat, common
millet, foxtail	wheat, durum

(b) if the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety". The percentage in this case may be shown as "pure seed" and shall apply only to seed of the variety named. If

February 20

19 87

separate percentages for the kind and the variety or hybrid are shown, the name of the kind and the name of the variety or the term "hybrid" shall be clearly associated with the respective percentages. When two or more varieties are present in excess of 5% and are named on the label, the name of each variety shall be accompanied by the percentage of each.

(4) that the seed is hybrid, if any one kind or kind and variety of seed present in excess of 5% is "hybrid" seed. The percentage that is hybrid shall be at least 95% of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varieties are present in excess of 5% and are named on the label, each that is hybrid shall be designated as "hybrid" on the label. No one kind or variety of seed may be labeled as "hybrid" if the pure seed contains less than 75% hybrid seed. Any one kind or kind and variety that has pure seed which is less than 95% but more than 75% hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show:

(a) the percentage of pure seed that is hybrid seed; or

(b) a statement such as "Contains from 75% to 95% hybrid seed";

(5) state or country of origin, if known, of alfalfa, red clover, white clover, native range grasses, and field corn other than hybrid. If the origin is unknown, the fact shall be stated.

(6) the approximate percentage of germination of agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the percentage of hard seeds may be added to the percentage of germination and stated as "total germination and hard seed".

(7) the germination date that must include the calendar month and year in which the germination test was completed;

(8) the purity analysis that must include:

~~(7)~~ (a) the approximate percentage by weight of pure seed, meaning the freedom of agricultural seeds from inert matter and from other seeds;

~~(8)~~ (b) the approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in agricultural seeds;

~~(9)~~ (c) the approximate total percentage by weight of weed seeds;

~~(10)~~ (d) the approximate percentage by weight of other crop seeds in agricultural seeds; and

~~(11)~~ (e) the name and approximate number of each kind or species of restricted noxious weed seeds occurring per pound of agricultural-vegetable- or-flower-seeds; seed;



February 20 19 87

~~413~~(9) the full name and address of the seedsman, importer, dealer or agent, or other person, firm, or corporation selling the agricultural seed;

~~413~~(10) in the case of mixtures of agricultural seeds which contain two or more kinds of seed in excess of 5% by weight of each, when sold as mixtures:

(a) name of mixture;

(b) name and approximate percentage by weight of each kind of agricultural seed present in the mixture in excess of 5% by weight of the total mixture;

(c) approximate percentage by weight of broken seeds and other inert matter in the mixture of agricultural seeds;

(d) approximate percentage by weight of weed seeds as defined in ~~80-5-101~~ [section 1];

(e) approximate percentage by weight of other crop seeds in the mixture of agricultural seeds;

(f) name and approximate number of each kind or species of restricted noxious weed seeds occurring per pound of mixtures of agricultural seeds, subject, however, to restrictions as ~~specified in established under 80-5-105;~~

(g) approximate percentage of germination of each kind of agricultural seed present in the mixture in excess of 5% by weight, together with the month and year the seed was tested. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the hard seed may be added to the percentage of germination and stated as "total germination and hard seed".

(h) full name and address of the vendor of the mixture."

Section 3. Section 80-5-103, MCA, is amended to read:

"80-5-103. Exchange of seed between labelers.

(1) When seed is exchanged or transferred from one seed labeler to another, it shall be accompanied by a shipping document which clearly shows the kind(s) of seed and quantity of each kind. Each container of seed in a lot shall carry appropriate a lot number designation and shall be accompanied by mechanical analysis for each lot so involved.

(2) While seed is in the possession of a licensed seed labeler, it must carry a lot number on each container at all times. When seed is made available for sale or sold, a complete label must be attached to each container of a lot."

Section 4. Section 80-5-104, MCA, is amended to read:

"80-5-104. Labeling of vegetable, flower, and indigenous seeds. (1) Vegetable and flower seeds in packets and in larger containers shall be labeled with the required information as follows:

February 20

19 87

- (a) each container of 1 pound or less:
- (i) the commonly accepted name of the kind or the kind and variety of the seed;
  - (ii) the name and address of the person who labeled the seed or who sells the seed within this state;
  - (iii) the name and number per pound of each kind of restricted noxious weed seeds as prescribed in by rules adopted under 80-5-105;
  - (iv) in the case of seed which has a percentage of germination less than the standard prescribed in the Federal Seed Act:
    - (A) the percentage of germination;
    - (B) the percentage of hard seed, if more than 1%;
    - (C) the month and year the test to determine the data required by this section was completed;
    - (D) the words "below standard germination" in not less than 8-point boldface type;
- (b) each container of more than 1 pound:
- (i) the name of the kind and variety of the contents;
  - (ii) the lot numbers or other lot identification;
  - (iii) the name and number per pound of each kind of restricted noxious weed seeds as prescribed in by rules adopted under 80-5-105;
  - (iv) the percentage of germination and whether the percentage of germination meets or exceeds the standard established in the Federal Seed Act;
  - (v) the percentage of hard seed, if more than 1%;
  - (vi) the month and year the test to determine the data required by this section was completed;
  - (vii) the name and address of the person who labeled the seed or who sells the seed within this state.
- (2) Indigenous seeds, as defined in 80-5-101 [section 1], in amounts of 1 pound or more, whether in package or bulk, must be labeled with the following information:
- (a) the statement "Labeled only for reclamation purposes";
  - (b) lot number or other distinguishing mark;
  - (c) the common name, genus, species, and subspecies when applicable, including the name of each kind of seed present in excess of 5%. When two or more kinds of seed are named on the label, the label shall specify the percentage of each. When only one kind of seed is present in excess of 5% and no variety name or type designation is shown, the percentage must apply to seed of the kind named. If the name of the variety is given, the name may be associated with the name of the kind. The percentage in this case may be shown as "pure seed" and must apply only to seed of the variety named.
  - (d) state or country of origin, if known. If the origin is unknown, that fact shall be stated.



February 20

19 37

(e) the approximate percentage of viable seed, together with the date of test. When labeling mixtures, the percentage viability of each kind shall be stated.

(f) the approximate percentage by weight of pure seed, meaning the freedom of seed from inert matter and from other seeds;

(g) the approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter;

(h) the approximate total percentage by weight of other seeds;

(i) the name and approximate number of each kind of species of restricted noxious weed seeds occurring per pound of seed;

(j) the full name and address of the person, firm, or corporation selling the seed."

Section 5. Section 80-5-105, MCA, is amended to read:

"80-5-105. Prohibitions. A person, firm, corporation, partnership, or association may not sell or transport for use in planting in this state any ~~agricultural, vegetable, or flower~~ seed that:

(1) contains prohibited noxious weed seeds;

(2) contains restricted noxious weed seeds in excess of either:

(a) the maximum numbers per pound allowed under rules adopted by the department; or

(b) the maximum numbers per pound as follows:

Common name	Species	Number of seeds per pound
adder	<del>(Cuscuta spp.)</del>	18
dyers woad	( <u>Isatis tinctoria</u> )	0
blue-lettuce	<del>(Lactuca pulchella)</del>	27-St. Johnswort
<del>(Hypericum perforatum)</del>		27
oxeye-daisy	<del>(Chrysanthemum leucanthemum)</del>	99
spotted	( <u>Centaurea maculosa</u> )	12 0
knapweed		
hoary-alyssum	<del>(Berteroa incana)</del>	9
wild oats	( <u>Avena fatua</u> )	45
	<u>(per pound of grass seed)</u>	9
	<u>(per pound of cereal seed)</u>	
buckhorn	<del>(Plantago lanceolata)</del>	99
plantain		
chickweed	<del>(Stellaria spp.)</del>	9
curly-dock	<del>(Rumex crispus)</del>	45

(3) contains in excess of 2% or more of weed seed;

(4) is offered or exposed for sale more than 12 calendar months from the last day of the month in which the germination

February 20

19 87

test was completed. This 12-month limitation does not apply when seed is packaged in hermetically sealed containers within 12 months after harvest. The container must be conspicuously labeled in not less than 8-point type to indicate that:

- (a) the container is hermetically sealed;
- (b) the seed has been preconditioned as to moisture content;
- (c) the germination test is valid for a period not to exceed 18 months from the date of the germination test for seeds offered for sale on a wholesale basis and for a period not to exceed 36 months for seeds offered for sale at retail;
- (d) the germination of vegetable seed at the time of packaging was equal to or above standards prescribed in the Federal Seed Act of August 1939, 7 U.S.C. 1551 through 1610, amended October 15, 1967, with subsequent revisions;

~~(5) is represented in any manner to be for lawn seeding purposes, unless it contains at least 50% pure seed of fine-textured perennial species which shall be specified by rules under this part. However, grass mixtures which do not contain 50% pure seed of fine-textured perennial grasses may be sold. When these grass mixtures are contained in packages of 35 pounds or less, they shall carry the statement: "Not recommended for a fine-textured perennial turf. Satisfactory for a temporary ground cover or where coarse grass is not objectionable." A definition of fine-textured varieties to be adopted in the rules is as follows:~~

- ~~(a) bluegrasses--all varieties except Canada bluegrass (Poa compressa), annual bluegrass (Poa annual), and rough bluegrass (Poa trivialis);~~
- ~~(b) chewings red fescue and all improved varieties;~~
- ~~(c) creeping red fescue and all improved varieties;~~
- ~~(d) bentgrass--all varieties;~~
- ~~(e) fine-textured ryegrasses;~~

~~(6) (5) is labeled, advertised, or otherwise represented as being certified seed of any class thereof unless:~~

- ~~(a) it has been determined by a seed certifying agency that such seed conforms to standards of purity and identity as to kind, species (and subspecies, if appropriate), or variety; and~~
- ~~(b) the seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind, species (and subspecies, if appropriate), or variety;~~

~~(7) (5) is labeled with a variety name for which a U.S. certificate of plant variety protection has been issued or applied for under the provisions of the Plant Variety Protection Act (7 U.S.C. 2321, et. seq.) without the authority of the owner of the variety or is labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which the certificate or application for "protection"~~



February 20, 1937.

specifies sale only as a class of certified seed, provided that seed from a certified lot may be labeled as to variety name when used in a mixture by or with approval of the owner of the variety."

Section 6. Section 80-5-107, MCA, is amended to read:

"80-5-107. Exemptions. Agricultural-seeds Seed or mixtures of same shall be exempt from the provisions of this part:

(1) when possessed, exposed for sale, or sold for food purposes only;

(2) when sold to merchants or dealers to be conditioned before being sold or offered for sale for seeding purposes;

(3) when in store for the purpose of conditioning or not possessed, sold, or offered for sale for seeding purposes within the state."

Section 7. Section 80-5-108, MCA, is amended to read:

"80-5-108. Inspection Analysis by grain-and seed laboratory -- reports. The grain-and seed laboratory of the agricultural experiment station shall inspect, analyze and test seeds sold or offered or exposed for sale in this state at a time and place and to the extent the director of the agricultural experiment station and the department determine. The laboratory shall report to the department all violations as they appear. It shall may also annually before September 1 make a report to the department of all tests made and the results, which may be published by the department. ~~The laboratory and the department shall have free access at all reasonable hours to all premises or structures to make examination of any seeds or any other premises of a warehouse, elevator, or railway company. Upon tendering payment at the current value, the department may take any sample of seeds.~~"

Section 8. Section 80-5-109, MCA, is amended to read:

"80-5-109. Testing of submitted samples. The grain-and seed laboratory shall analyze any official seed samples taken from seed lots offered for sale in the state and or submitted by the department using methods such as those established under the Federal Seed Act and the procedural guidelines developed by the association of official seed analysts."

Section 9. Section 80-5-110, MCA, is amended to read:

"80-5-110. Laboratory testing of samples -- fees. Any citizen of this state may request the grain-and seed laboratory to examine, analyze, and test samples of seed upon payment of the fee and compliance with rules governing the submission of seed samples for such service. Samples of seed analyzed and tested shall be charged for at rates ~~determined~~ definitely established by the rule of the department and the director of the grain-and seed laboratory as recommended by the agricultural experiment station. All fees collected by the grain-and seed laboratory shall be used



February 20 19 87

to defray the expenses incurred by the laboratory under ~~80-5-101~~ 80-5-102 through 80-5-113."

Section 10. Section 80-5-111, MCA, is amended to read:

"80-5-111. Certificate of test presumptive evidence. The certificate of the grain and seed laboratory, giving results of any examinations, analyses, or tests of any seed samples made under the authority of the department, is presumptive evidence of the correctness of the facts stated in it."

Section 11. Section 80-5-112, MCA, is amended to read:

"80-5-112. Enforcement -- rules. The department shall administer and enforce ~~80-5-101~~ 80-5-102 through 80-5-113. For that purpose, the department may adopt rules. The department may issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of agricultural seed which the department finds in violation of ~~80-5-101~~ 80-5-102 through 80-5-113. The order shall prohibit further sale of the seed until the department has evidence that the law has been complied with. The seed may not be confiscated or destroyed. Upon proper correction, by reconditioning, labeling, or otherwise, and when, in the judgment of the department, the requirements of ~~80-5-101~~ 80-5-102 through 80-5-113 have been met, the stop sale order shall be lifted and the seed may be sold. The department shall adopt all necessary rules relating to the agricultural experiment station's duties under ~~80-5-101~~ 80-5-102 through 80-5-113."

Section 12. Section 80-5-113, MCA, is amended to read:

"80-5-113. Penalty. Any person, firm, or corporation which sells or offers or exposes for sale or distribution in the state any ~~agricultural-seeds~~ seed for seeding purposes without complying with the requirements of ~~80-5-101~~ 80-5-102 through 80-5-113 is guilty of a misdemeanor and upon conviction shall be fined not less than \$100 or more than \$300 plus costs of such prosecution and upon conviction of the second or any subsequent offense shall be fined not less than \$500 or more than \$1,000 plus costs of such prosecution."

Section 13. Section 80-5-202, MCA, is amended to read:

"80-5-202. Licensing --- ~~issuance~~ -- application -- fee --- ~~bonding~~ --- ~~insurance~~. (1) All seed conditioning plants and seed labelers shall obtain a license from the department for each plant before doing business in this state; however, a Montana certified seed grower, when conditioning or labeling certified seed from his own production, is not required to be licensed under this part. ~~Bin-run-seed-sales-from-one-farmer-to-another are-exempt-from-this-part.~~

(2) Each conditioning plant must post in a conspicuous location in the facility:

- (a) its fees for conditioning services; and
- (b) the license designation for the facility.

~~(2) All licenses are issued on a fiscal-year basis and~~



~~expire on June 30 of each year.~~

(3) All seed labelers and growers who label or affix written claims to their seed shall obtain a license from the department before doing business in Montana. The following persons, however, are excluded from the licensing requirements under this subsection:

(a) a Montana certified seed grower when labeling certified seed from his own production; and

(b) any person who updates germination test data by affixing to the package of seed a supplemental label bearing new germination data, the lot number, and his name and address.

(4) No person may sell or distribute seed in Montana without obtaining a seed dealer's license from the department for each place where seed is located, except for:

(a) a person who distributes seed only in sealed packages of 10 pounds or less that are properly labeled;

(b) a Montana certified seed grower when selling certified seed from his own production; and

(c) a person when making bin-run seed sales.

(5) Each person selling seed from a location other than the licensed place must be listed on the application for license.

~~(3) Application for license is made in a manner and on forms provided by the department. A nonresident shall file a written power of attorney designating the secretary of state as his agent, and the power of attorney shall be so prepared and in such form as to render effective the jurisdiction of the courts of the state of Montana over the nonresident applicant. A nonresident who has a duly appointed resident agent upon whom process may be served as provided by law is not required to designate the secretary of state as his agent. The department shall be furnished with a certified copy of the designation of the secretary of state or of a resident agent.~~

(6) The department shall set by rule the period for which a license is issued under this section.

~~(4)(7) The department may establish by rule minimum standards for equipment and handling procedures for facilities to be licensed and may carry out inspections during normal business hours to determine that these standards are being adhered to.~~

(5)(8) Each license shall cost no more than \$50 a year. The fee must include the cost of application for a license and must be nonrefundable. The department may by rule establish license fees which bear a reasonable relationship to the cost of administering this part.

~~(6) Failure on the part of a licensee to comply with the rules issued under the authority of this section is sufficient cause for cancellation of a license by the department, provided the licensee is given a reasonable opportunity to correct~~

February 20 19 37

~~Inadvertent and nonrecurring deficiencies.~~

(9) An application for a license under this section must be made in a manner and on forms provided by the department. Such application must contain among other things:

(a) the location of each seed conditioning plant if the application is for a seed conditioning plant license;

(b) a sample label if the application is for a seed labeler license; and

(c) a list of persons selling seed if the application is for a seed dealer's license."

Section 14. Section 80-5-204, MCA, is amended to read:

"80-5-204. Screenings -- restrictions on movements. All screenings whether from seed conditioning plants or other sources represent both a valuable and potentially hazardous product. Their movements are restricted as follows:

(1) The viability of prohibited noxious weed seed as defined in ~~80-5-101~~ [section 1] shall be destroyed before screenings are utilized in feed or in any other way in which they may propagate their kind. However, if these screenings are sold for feed, it shall be the responsibility of the feed buyer to haul under a tarp cover or other tight container until the provisions of this part are met.

(2) The department ~~has authority to~~ may issue adopt rules to restrict or exempt from restriction the holding and movement of screenings when the public interest is served by so doing."

Section 15. Section 80-5-205, MCA, is amended to read:

"80-5-205. Violations. The following acts caused within the state of Montana are prohibited:

(1) the failure or refusal to obtain a license as required in 80-5-202 and ~~80-5-203~~;

(2) the misbranding or mislabeling of ~~agricultural seeds~~ seed;

(3) the violation or failure to comply with rules issued under the authority of this part.

Section 16. Section 80-5-207, MCA, is amended to read:

"80-5-207. Violation -- cancellation of license -- enforcement proceedings. ~~(1) The department may cancel any license issued by it when the provisions of this part have been violated by the holder of the license.~~ Distribution of seeds that are not legally labeled or failure to comply with this chapter or rules issued under its authority constitutes sufficient grounds for the department to cancel or deny a license to a licensee, provided that the licensee is given a reasonable opportunity to correct inadvertent and nonrecurring deficiencies.

(2) Any person convicted of violating the provisions of this part or rules promulgated under the authority of this part is guilty of a misdemeanor and shall be fined not less than \$100 or more than \$300 for the first violation and not less than \$500 or

.....February 20..... 1987.....

more than \$1,000 for each subsequent violation.

(3) Nothing in this part shall be construed as requiring the department or its representatives to report violations of this part when it believes that the public interest will be best served by a suitable notice of warning.

(4) It is the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(5) The department is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this part or any rule promulgated under this part notwithstanding the existence of other remedies at law. An injunction is issued without bond.

(6) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this part may within 30 days bring action in the district court of the county or any county where the alleged violation occurred for trial of the issues bearing upon such act."

NEW SECTION. Section 17. Inspection. To enforce this chapter, the department may enter, at reasonable times, any public or private premises, including any vehicle of transport, and upon entry to the premises, the department may obtain samples, examine seeds and labels, inspect equipment, and review records relating to distribution of seed in Montana. The department may take any sample of seeds as may be required; however, the department shall pay, upon request, the firm current market value for each sample.

NEW SECTION. Section 18. Publication of reports. The department may publish the names and addresses of persons licensed under this chapter.

NEW SECTION. Section 19. Repealer. Sections 80-5-101, 80-5-106, 80-5-201, and 80-5-203, MCA, are repealed.

NEW SECTION. Section 20. Extension of authority. Any existing authority of the department of agriculture to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 21. Effective dates.

(1) Section 20 and this section are effective on passage and approval, except rules adopted by the department may not take effect until October 1, 1987.

(2) The remaining sections of this act are effective October 1, 1987.

-END-

A:7048c.txt

50th Legislature

STATEMENT OF INTENT  
HOUSE BILL NO. 220

This bill requires a statement of intent because 80-5-101 and 80-5-105, as amended, require the department of agriculture to adopt rules defining noxious weed seeds.

It is the intent of the legislature that the department establish rules for prohibited or restricted noxious weed seeds for the purpose of implementing Title 80, chapter 7, part 9, and Title 7, chapter 22, part 21. The legislature intends that the listed noxious weed seeds be classified into two categories, prohibited noxious weed seeds and restricted noxious weed seeds. The characteristics of the two categories are as follows:

(1) "Prohibited noxious weed seeds" means seeds of annual and perennial plants that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(2) "Restricted noxious weed seeds" are seeds of weeds that are very objectionable in fields, lawns, and gardens of this state that can be controlled by good cultural practices.

The legislature intends that the listed noxious weed seeds need not be identical to the noxious weeds listed by rules adopted under the above mentioned statutes. The Montana Department of Agriculture shall determine which noxious weed seeds must be prohibited and which noxious weed seeds should be restricted and at what levels.

EXHIBIT  
DATE Jan 21 1987  
HB 184 - Rep Raymond  
Brandewie  
LC 412

50th Legislature

STATEMENT OF INTENT

H Bill No. 184

A statement of intent is required for this bill because section 1 requires the department of agriculture to adopt rules establishing fees for the inspection and certification of apples.

In adopting rules under section 1, the department should set fees in an amount sufficient to reimburse the department for the costs of providing services under 80-3-201. It is the intent of the legislature that the costs of such services should be recovered by fees in order to allow the activities of the department to be primarily self-supporting. However, such fees may be less than the actual costs of services if, in the determination of the department, the fees charged would be harmful to the industry.

7009b/c:Jeanne\WP:jj

EXHIBIT #1  
DATE Jan 21, 1987  
HB 220 - Rep Gene  
De Mars

50th Legislature

STATEMENT OF INTENT  
HOUSE BILL NO. 220

This bill requires a statement of intent because 80-5-101 and 80-5-105, as amended, require the department of agriculture to adopt rules defining noxious weed seeds.

It is the intent of the legislature that the department establish rules for prohibited or restricted noxious weed seeds for the purpose of implementing Title 80, chapter 7, part 8, and Title 7, chapter 22, part 21. The legislature intends that the listed noxious weed seeds be classified into two categories, prohibited noxious weed seeds and restricted noxious weed seeds. The characteristics of the two categories are as follows:

(1) "Prohibited noxious weed seeds" means seeds of annual and perennial plants that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(2) "Restricted noxious weed seeds" are seeds of weeds that are very objectionable in fields, lawns, and gardens of this state that can be controlled by good cultural practices.

The legislature intends that the listed noxious weed seeds need not be identical to the noxious weeds listed by rules adopted under the above mentioned statutes. The Montana department of agriculture shall determine which noxious weed seeds must be prohibited and which noxious weed seeds should be restricted and at what levels.

EXHIBIT #2  
DATE Jan. 21, 1987  
HB 220 - Rep. Gene  
De Mars

444-4853 Legislature

---

UNOFFICIAL COPY

MONTANA DEPARTMENT OF AGRICULTURE  
PLANT INDUSTRY DIVISION  
HELENA, MONTANA

CHAPTER 5  
AGRICULTURAL SEED

ADMINISTRATOR,  
GRAN ROY BJORNSON

DIRECTOR,  
KEITH KELLY



CHAPTER 5

PART 1

SEED LABELING

80-5-101--Definitions-

-----Terms-used-in-this-part-and-not-otherwise-identified-are-hereby-defined-

----- (1) -- Agricultural seeds are the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seeds and include lawn seeds and mixtures of seeds.

----- (2) -- Vegetable seeds include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

----- (3) -- Flower seeds include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and are commonly known and sold under the name of flower seeds in this state.

----- (4) -- Indigenous seeds include the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These species include grasses, forbs, shrubs, and legumes.

----- (5) -- (a) -- The term "weed seeds" includes the seeds or bulblets of all plants generally recognized as weeds within this state and includes noxious weed seeds.

----- (b) -- Noxious weed seeds are divided into two groups defined as follows:

----- (i) -- "Prohibited noxious weed seeds" are the seeds of perennial and other serious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice. Prohibited noxious weed seeds include the seeds of:

Canada thistle	{Cirsium-arvense}
leafy spurge	{Euphorbia-esula}
hoary cress	{Cardaria-draba}
quackgrass	{Agropyron-repens}
Russian knapweed	{Centaurea-repens}
perennial sowthistle	{Sonchus-arvensis}
field bindweed	{Convolvulus-arvensis}
dalmatian toadflax	{Linaria-dalmatica}
halogeton	{Halogeton-glomeratus}
medusa-head wildrye	{Elymus-caput-medusae}
creeping bellflower	{Campanula-rapunculoides}
yellow toadflax	{Linaria-vulgaris}

(ii) -- "Restricted-noxious-weed-seeds" are the seeds of weeds that are very objectionable in fields, lawns, and gardens of this state but can be controlled by good cultural practices. Restricted-noxious-weed-seeds shall include the seeds of:

dodder	{Cuscuta-spp.}
blue-lettuce	{Lactuca-pulchella}
St.-Johnswort	{Hypericum-perforatum}
oxeye-daisy	{Chrysanthemum-leucanthemum}
spotted-knapweed	{Centaurea-maculosa}
hoary-alyssum	{Berteroa-incana}
wild-oats	{Avena-fatua}
buckhorn-plantain	{Plantago-lanceolata}
chickweed	{Stellaria-spp.}
curly-dock	{Rumex-crispus}

(6) -- The term "hybrid" applied to kinds of varieties of seed means the first-generation seed of a cross produced by controlling the pollination and by combining:

- (a) -- two or more inbred lines;
- (b) -- one inbred or a single cross with an open-pollinated variety;
- or
- (c) -- two or more selected clones, seed lines, varieties, or species.

-----(7) -- "Controlling the pollination" means to use a method of hybridization which will produce pure seed which is at least 75% hybrid seed. -- Hybrid designations shall be treated as variety names.

-----(8) -- The terms "approximate percentage" and "approximate number" mean the percentage or number with the variations above or below as allowed according to the tolerance limits defined in the "rules for seed testing" adopted by the association of official seed analysts.

-----(9) -- The term "percentage of germination" means the percentage of seeds which show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the "rules for seed testing" adopted by the association of official seed analysts.

-----(10) -- The term "percentage viability" refers to the percentage of live seed capable of producing a normal seedling under optimum growing conditions, after all forms of dormancy have been overcome, if present.

-----(11) -- The term "name of state in which the seed was grown" means any of the several states of the United States or the foreign country.

-----(12) -- The term "labeling" means to affix, before offering the seed for sale, in a conspicuous place on the exterior of the container a written or printed label in the English language, giving the required information.

-----(13) -- The term "other crop seeds" means any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

----- (14) --- The term "sell" includes "offer for sale", "expose for sale", "have in possession for sale", "exchange", "barter", or "trade". It also includes agricultural seeds that are furnished to growers for the production of a crop contract.

----- (15) --- The term "certifying agency" means:  
----- (a) --- an agency authorized under the laws of a state, territory, or possession to officially certify seed and which has standards and procedures to assure the genetic purity and identity of the seed certified; or  
----- (b) --- an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under subsection (15) (a) of this section.

----- (16) --- The term "protected variety" means a variety for which a certificate has been issued by the U.S. Plant Variety Protection Office or for which an application for protection has been filed granting the owner or his authorized agent exclusive rights in the sale and distribution of the variety.

### 80-5-101. Definitions.

As used in this chapter, the following definitions apply.

(1) "Agricultural seeds" means the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seeds and include lawn seeds and mixtures of seeds.

(2) "Approximate percentage" and "approximate number" mean the percentage or number with the variations above or below as allowed according to the tolerance limits defined in the "rules for seed testing" adopted by the Association of Official Seed Analysts.

(3) "Bin-run sales" means seed sales from one farmer to another farmer with seeds sold "as is" without any guarantee or analysis. *or variety*

(4) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession to officially certify seed and which has standards and procedures to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under subsection (15) (a) of this section.

(5) "Controlling the pollination" means to use a method of hybridization which will produce pure seed which is at least 75% hybrid seed. Hybrid designations shall be treated as variety names.

(6) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and are commonly known and sold under the name of flower seeds in this state.

(7) "Hybrid" means all kinds of varieties of first generation seeds that are cross produced by controlling the pollination and by combining:  
(a) two or more inbred lines;  
(b) one inbred or a single cross with an open pollinated variety;  
or  
(c) two or more selected clones, seed lines, varieties, or species.

(8) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These species include grasses, forbs, shrubs, and legumes.

(9) "Labeling" means to affix, before offering the seed for sale, in a conspicuous place on the exterior of the container a written or printed label which has not been altered, in the English language, giving the required information.

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

(11) "Name of state in which the seed was grown" means any of the several states of the United States or the foreign country.

(12) "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

(13) "Percentage of germination" means the percentage of seeds which show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the "rules for seed testing" adopted by the Association of Official Seed Analysts.

(14) "Percentage viability" means the percentage of live seed capable of producing a normal seedling under optimum growing conditions, after all forms of dormancy have been overcome, if present.

(15) "Person" means any individual, firm, partnership, corporation, or association.

(16) "Prohibited noxious weed seeds" means the seeds of perennial and other serious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice. Prohibited noxious weed seeds shall be designated by rule of the department.

(17) "Protected variety" means a variety for which a certificate has been issued by the U.S. Plant Variety Protection Office or for which an application for protection has been filed granting the owner or his authorized agent exclusive rights in the sale and distribution of the variety.

(18) "Restricted noxious weed seeds" are the seeds of weeds that are very objectionable in fields, lawns, and gardens of this state but can be controlled by good cultural practices. Restricted noxious weed seeds and maximum number per pound shall be designated by rule of the department.

(19) "Screening" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed from seed by any kind of cleaning or conditioning.

(20) "Seed conditioning plant" means any place of business that repackages, conditions, blends, treats, or otherwise manipulates agricultural seeds.

(21) "Seed dealer" means any person who offers for sale, sells, or barter agricultural seeds.

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

(23) "Sell, or sale, or offer for sale" means "expose for sale", "have in possession for sale", "exchange", "barter", or "trade". It also includes agricultural seeds that are furnished to growers for the production of a crop on contract.

(24) "Vegetable seeds" means the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

(25) "Weed seeds" means the seeds or bulblets of all plants generally recognized as weeds within this state and includes noxious weed seeds.

#### 80-5-102. Labeling of agricultural seeds.

Any person offering for sale a package, parcel, or lot of agricultural seeds, as defined in 80-5-101, that contains 1 pound or more of agricultural seeds, whether in package or in bulk, must have affixed to it a label specifying:

(1) a lot number or other distinguishing mark;

(2) kind. The name of each kind of seed present in excess of 5% shall be shown on the label and need not be accompanied by the word "kind". When two or more kinds of seed are named on the label, the name of each kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of 5% and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply to seed of the kind named.

(3) variety, as follows:

(a) the following kinds of agricultural seeds shall be labeled to show the variety name or the words "variety not stated":

alfalfa	oat
barley	pea, field
bean, field	rye
beet, field	safflower
brome, smooth	sorghum
clover, crimson	sorghum-sudan hybrid
clover, red	soybean
clover, white	sudan grass
corn, field	sunflower
corn, pop	trefoil, birdsfoot
fescue, tall	wheat, common
flax	wheat, durum
millet, foxtail	<u>wheat, club</u>

(b) if the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety". The percentage in this case may be shown as "pure seed" and shall apply only to seed of the variety named. If separate percentages for the kind and the variety or hybrid are shown, the name of the kind and the name of the variety or the term "hybrid" shall be clearly associated with the respective percentages. When two or more varieties are present in excess of 5% and are named on the label, the name of each variety shall be accompanied by the percentage of each.

(4) that the seed is hybrid, if any one kind or kind and variety of seed present in excess of 5% is "hybrid" seed. The percentage that is hybrid shall be at least 95% of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds of varieties are present in excess of 5% and are named on the label, each that is hybrid shall be designated as "hybrid" on the label. No one kind or variety of seed may be labeled as "hybrid" if the pure seed contains less than 75% hybrid seed. Any one kind or kind and variety that has pure seed which is less than 95% but more than 75% hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show:

- (a) the percentage of pure seed that is hybrid seed; or
- (b) a statement such as "Contains from 75% to 95% hybrid seed";

(5) state or country of origin, if known, of alfalfa, red clover, white clover, native range grasses, and field corn other than hybrid. If the origin is unknown, the fact shall be stated.

(6) the approximate percentage of germination of agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the percentage of hard seeds may be added to the percentage of germination and stated as "total germination and hard seed".

<sup>6</sup>A (7) The germination date which shall mean the calendar month and year which the germination test was completed. An up-to-date germination date shall mean no more than twelve (12) calendar months may have elapsed since the last day of the month of the germination date and the date of the sale of the seed.

(8) the purity analysis which shall include:

(7) (a) the approximate percentage by weight of pure seed, meaning the freedom of agricultural seeds from inert matter and from other seeds;

(8) (b) the approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in agricultural seeds;

(9) (c) the approximate total percentage by weight of weed seeds;

(10) (d) the approximate percentage by weight of other crop seeds in agricultural seeds;

7 (11) (e) the name and approximate number of each kind or species of restricted noxious weed seeds occurring per pound of agricultural, vegetable, or flower seeds;

(12) (9) the full name and address of the seedsman, importer, dealer or agent, or other person, firm, or corporation selling the agricultural seed;

(13) (10) in the case of mixtures of agricultural seeds which contain two or more kinds of seed in excess of 5% by weight of each, when sold as mixtures:

(a) name of mixture;

(b) name and approximate percentage by weight of each kind of agricultural seed present in the mixture in excess of 5% by weight of the total mixture;

(c) approximate percentage by weight of broken seeds and other inert matter in the mixture of agricultural seeds;

(d) approximate percentage by weight of weed seeds as defined in 80-5-101;

(e) approximate percentage by weight of other crop seeds in the mixture of agricultural seeds;

(f) name and approximate number of each kind or species of restricted noxious weed seeds occurring per pound of mixtures of agricultural seeds, subject, however, to restrictions as specified in 80-5-105;

(g) approximate percentage of germination of each kind of agricultural seed present in the mixture in excess of 5% by weight, together with the month and year the seed was tested. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the hard seed may be added to the percentage of germination and stated as "total germination and hard seed".

(h) full name and address of the vendor of the mixture.

(11) Any supplemental labels or changes in a label must be a <sup>mechanically</sup> printed label.

*between labelers*

80-5-103. Exchange of seed between-labelers:

When seed is exchanged or transferred from one seed labeler to another, shall be accompanied by a shipping document which clearly shows the kind(s) of seed and quantity of each kind. Each container of seed in a lot shall carry an appropriate lot number designation at all times. ~~and shall be accompanied by mechanical analysis for each lot so involved. When seed is available for sale or sold, a complete label must be attached to each container of a lot.~~

80-5-104. Labeling of vegetable, flower, and indigenous seeds.

(1) Vegetable and flower seeds in packets and in larger containers shall be labeled with the required information as follows:

(a) each container of 1 pound or less:

(i) the commonly accepted name of the kind or the kind and variety of the seed;

(ii) the name and address of the person who labeled the seed or who sells the seed within this state;

(iii) the name and number per pound of each kind of restricted noxious weed seeds as prescribed in ~~80-5-105~~; *By rule*

(iv) in the case of seed which has a percentage of germination less than the standard prescribed in the Federal Seed Act:

(A) the percentage of germination;

(B) the percentage of hard seed, if more than 1%;

(C) the month and year the test to determine the data required by this section was completed;

(D) the words "below standard germination" in not less than 3-point boldface type;

(2)(b) each container of more than 1 pound:

(i) the name of the kind and variety of the contents;

(ii) the lot numbers or other lot identification;

(iii) the name and number per pound of each kind of restricted noxious weed seeds as prescribed in 80-5-105;

(iv) the percentage of germination and whether the percentage of germination meets or exceeds the standard established in the Federal Seed Act;

(v) the percentage of hard seed, if more than 1%;

(vi) the month and year the test to determine the data required by this section was completed;

(vii) the name and address of the person who labeled the seed or who sells the seed within this state.

(2) Indigenous seeds, as defined in 80-5-101, in amounts of 1 pound or more, whether in package or bulk, must be labeled with the following information:



(a) the statement "Labeled only for reclamation purposes";

(b) lot number or other distinguishing mark;

(c) the common name, genus, species, and subspecies when applicable, including the name of each kind of seed present in excess of 5%. When two or more kinds of seed are named on the label, the label shall specify the percentage of each. When only one kind of seed is present in excess of 5% and no variety name or type designation is shown, the percentage must apply to seed of the kind named. If the name of the variety is given, the name may be associated with the name of the kind. The percentage in this case may be shown as "pure seed" and must apply only to seed of the variety named.

(d) state or country of origin, if known. If the origin is unknown, that fact shall be stated.

(e) the approximate percentage of viable seeds, together with the date of test. When labeling mixtures, the percentage viability of each kind shall be stated.

(f) the approximate percentage by weight of pure seed, meaning the freedom of seed from inert matter and from other seeds;

(g) the approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter;

(h) the approximate total percentage by weight of other seeds;

(i) the name and approximate number of each kind of species of restricted noxious weed seeds occurring per pound of seed;

(j) the full name and address of the person, firm, or corporation selling the seed.

80-5-105. Prohibitions.

A person, firm, corporation, partnership, or association may not sell or transport for use in planting in this state any ~~agricultural, vegetable, or flower~~ seed that:

(1) contains prohibited noxious weed seeds; *AS provided by rule*

(2) contains restricted noxious weed seeds in excess of the maximum numbers per pound as follows: provided by rule.

Common name	Species	Number of seeds per pound
dodder	(Cuscuta spp.)	18
blue-lettuce	(Lactuca pulchella)	27
St. Johnswort	(Hypericum perforatum)	27
oxeye-daisy	(Chrysanthemum leucanthemum)	90
spotted-knapweed	(Centaurea maculosa)	18
hoary-alyssum	(Berteroa incana)	9
wild-oats	(Avena fatua)	45
buckhorn-plantain	(Plantago lanceolata)	90
chickweed	(Stellaria spp.)	9
curly-dock	(Rumex crispus)	45

(3) contains in excess of 2% or more of weed seed;

(4) is offered or exposed for sale more than 12 calendar months from the first day of the month in which the germination test was completed. This 12-month limitation does not apply when seed is packaged in hermetically sealed containers within 12 months after harvest. The container must be conspicuously labeled in not less than 8-point type to indicate that:

(a) the container is hermetically sealed;

(b) the seed has been preconditioned as to moisture content;

(c) the germination test is valid for a period not to exceed 18 months from the date of the germination test for seeds offered for sale on a wholesale basis and for a period not to exceed 36 months for seeds offered for sale at retail;

(d) the germination of vegetable seed at the time of packaging was equal to or above standards prescribed in the Federal Seed Act of August 1939, 7 U.S.C. 1551 through 1610, amended October 15, 1967, with subsequent revisions;

~~----- (5) is represented in any manner to be for lawn seeding purposes, unless it contains at least 50% pure seed of fine textured perennial species which shall be specified by rules under this part. However, grass mixtures which do not contain 50% pure seed of fine textured perennial grasses may be sold. When these grass mixtures are contained in packages of 25 pounds or less, they shall carry the statements: "Not recommended for a fine textured perennial turf. Satisfactory for a temporary ground cover or where coarse grass is not objectionable." A definition of fine textured varieties to be adopted in the rules is as follows:~~

- ~~----- (a) bluegrasses--all varieties except Canada bluegrass (Poa compressa), annual bluegrass (Poa annua), and rough bluegrass (Poa trivialis);~~
- ~~----- (b) chewings red fescue and all improved varieties;~~
- ~~----- (c) creeping red fescue and all improved varieties;~~
- ~~----- (d) bentgrass--all varieties;~~
- ~~----- (e) fine textured ryegrasses;~~

(6) 5 is labeled, advertised, or otherwise represented as being certified seed of any class thereof unless:

(a) it has been determined by a seed certifying agency that such seed conforms to standards of purity and identity as to kind, species (and subspecies, if appropriate), or variety; and

(b) the seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind, species (and subspecies, if appropriate), or variety;

(7) 6 is labeled with a variety name for which a U.S. certificate of plant variety protection has been issued or applied for under the provisions of the Plant Variety Protection Act (7 U.S.C. 2321, et. seq.) without the authority of the owner of the variety or is labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which the certificate or application for "protection" specifies sale only as a class of certified seed, provided that seed from a certified lot may be labeled as to variety name when used in a mixture by or with approval of the owner of the variety.

-----80-5-106.---Revision-of-classifications--hearing--order.

-----The-department-may,-with-the-written-approval-of-the-director-of-the agricultural-experiment-station-recorded-before-or-within-10-days-after-a public-hearing,-revise-the-groups-and-classifications-of-noxious-weed-seeds provided-in-this-part-to-prevent-or-diminish-the-distribution-and-occurrence of-noxious-weed-seeds-in-this-state.---Notice-of-the-hearing-shall-be-published by-the-department,-at-least-30-days-before-the-day-set-for-the-hearing,-in three-newspapers-of-general-circulation-in-the-state-and-shall-be-mailed-to all-associations-of-seed-dealers-in-the-state-who-are-organized-on-a-statewide basis.---A-revision-or-modification-made-as-a-result-of-the-hearing-shall-be adopted-by-a-written-order-of-the-department,-shall-be-countersigned "approved"-by-the-director-of-the-agricultural-experiment-station,-and-shall plainly-state-the-revisions-or-modifications-and-any-qualifications, exceptions,-or-conditions-pertaining-to-the-revisions-or-modifications.

80-5-107 6. Exemptions.

Agricultural seeds or mixtures of same shall be exempt from the provisions of this ~~part~~ <sup>Act</sup>

*Agricultural Seed*

- (1) when possessed, exposed for sale, or sold for food purposes only;
- (2) when sold to merchants or dealers to be conditioned before being sold or offered for sale for seeding purposes;
- (3) when in store for the purpose of conditioning or not possessed, sold, or offered for sale for seeding purposes within the state.

80-5-108 7. Inspection by Analysis by grain-and seed laboratory--reports.

(1) The seed laboratory shall analyze any official seed samples taken from seed lots offered for sale or any submitted samples using methods such as determined by the Federal Seed Act provisions and the procedural guidelines as developed by the Association of Official Seed Analysts.

(2) The grain-and seed laboratory of the agricultural experiment station shall inspect, analyze, and test seeds sold or offered or exposed for sale in this state at a time and place and to the extent the director of the agricultural experiment station and the department determine. The laboratory shall report to the department all violations as they appear. It shall may also annually before September 1 make a report to the department of all tests made and the results, which may be published by the department. The laboratory-and-the-department-shall-have-free-access-at-all-reasonable-hours to-all-premises-or-structures-to-make-examination-of-any-seeds-or-any-other premises-of-a-warehouse,-elevator,-or-railway-company.---Upon-tendering-payment at-the-current-value,-the-department-may-take-any-sample-of-seeds.

80-5-109.---Testing-of-submitted-samples-

The-grain-and-seed-laboratory-shall-analyze-any-seed-samples-taken-from  
ed-lots-offered-for-sale-in-the-state-and-submitted-by-the-department-

80-5-110 08. Laboratory testing of samples--fees.

Any citizen of this state may request the grain and seed laboratory to examine, analyze, and test samples of seed upon payment of the fee and compliance with rules governing the submission of seed samples for such service. Samples of seed analyzed and tested shall be charged for at rates determined-jointly established by the rule of the department and the director of the grain and seed laboratory as recommended by the agricultural experiment station. All fees collected by the grain and seed laboratory shall be used to defray the expenses incurred by the laboratory under 80-5-101 through 80-5-113.

80-5-111 09. Certificate of test presumptive evidence.

The certificate of the grain and seed laboratory, giving results of any examinations, analyses, or tests of any seed samples made under the authority of the department, is presumptive evidence of the correctness of the facts stated in it.

80-5-112 0. Enforcement--rules.

The department shall administer and enforce 80-5-101 through 80-5-113. For that purpose, the department may adopt rules. The department may issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of ~~agricultural~~ seed which the department finds in violation of 80-5-101 through 80-5-113. The order shall prohibit further sale of the seed until the department has evidence that the law has been complied with. The seed may not be confiscated or destroyed. Upon proper correction, by reconditioning, labeling, or otherwise, and when, in the judgement of the department, the requirements of 80-5-101 through 80-5-113 have been met, the stop sale order shall be lifted and the seed may be sold. The department shall adopt all necessary rules relating to the agricultural experiment station's duties under 80-5-101 through 80-5-113.

80-5-113 1. Penalty.

Any person, firm, or corporation which sells or offers or exposes for sale or distribution in the state any ~~agricultural~~ seeds for seeding purposes without complying with the requirements of 80-5-101 through 80-5-113 is guilty of a misdemeanor and upon conviction shall be fined not less than \$100 or more than \$300 plus costs of such prosecution and upon conviction of the second or any subsequent offense shall be fined not less than \$500 or more than \$1,000 plus costs of such prosecution.

PART 2

SEED DEALERS, PROCESSORS LABELERS, AND  
WAREHOUSEMEN CONDITIONING PLANTS

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

------(1)---"Agricultural-seed"-means-the-seeds-of-grass,-forage,-cereal,-and fiber-crops-and-any-other-kinds-of-seeds-commonly-recognized-within-this-state as-agricultural-seeds-and-includes-lawn-seeds-and-mixtures-of-seeds-

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

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

------(4)---"Person"-means-any-individual,-firm,-partnership,-corporation,-or association-

------(5)---"Screening"-means-chaff,-sterile-florets,-immature-seed,-weed-seed, inert-matter,-and-any-other-materials-removed-from-seed-by-any-kind-of cleaning-or-conditioning-

------(6)---"Seed-dealer"-means-any-person-who-offers-for-sale,-sells,-or markets-agricultural-seeds-to-the-ultimate-consumer-

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

------(8)---"Seed-Conditioning-plant"-means-any-place-of-business-that repackages,-conditions,-blends,-treats,-or-otherwise-manipulates-agricultural seeds-

80-5-202 1. Licensing--issuance exceptions -- application--fee .

------(1)---All-seed-conditioning-plants-and-seed-labelers-shall-obtain-a license-from-the-department-before-doing-business-in-this-state;-however,-a Montana-certified-seed-grower,-when-conditioning-or-labeling-certified-seed from-his-own-production-is-not-required-to-be-licensed-under-this-part;- Bin-run-seed-sales-from-one-farmer-to-another-are-exempt-from-this-part-

------(2)---All-licenses-are-issued-on-a-fiscal-year-basis-and-expire-on-June-30 of-each-year-

----- (3) -- Application for license is made in a manner and on forms provided by the department. -- A nonresident shall file a written power of attorney designating the secretary of state as his agent, and the power of attorney all be so prepared and in such form as to render effective the jurisdiction of the courts of the state of Montana over the nonresident applicant. -- A nonresident who has a duly appointed resident agent upon whom process may be served as provided by law is not required to designate the secretary of state as his agent. -- The department shall be furnished with a certified copy of the designation of the secretary of state or of a resident agent.

----- (4) -- The department may establish by rule minimum standards for equipment and handling procedures for facilities to be licensed and may carry out inspections during normal business hours to determine that these standards are being adhered to.

----- (5) -- Each license shall cost no more than \$50 a year. -- The department may by rule establish license fees which bear a reasonable relationship to the cost of administering this part.

----- (6) -- Failure on the part of a licensee to comply with the rules issued under the authority of this section is sufficient cause for cancellation of a license by the department, provided the licensee is given a reasonable opportunity to correct inadvertent and nonrecurring deficiencies.

(1) All seed conditioning plants shall obtain a license for each plant from the department before doing business in Montana.

(a) A seed grower when conditioning only seed of his own production doesn't require a seed conditioning plant license.

(b) The department may establish by rule minimum standards for equipment and handling procedures for facilities to be licensed.

(c) Each conditioning plant shall post in a conspicuous location in the facility:

(i) their fees for conditioning services.

(ii) the license designation for the facility.

(2) All seed labelers in Montana shall obtain a license from the department before doing business in Montana.

(a) Any grower who labels or purports a claim on his seed must have a seed labeler's license.

(b) A Montana certified seed grower when labeling certified seed of his own production doesn't require a seed labeler's license.

(c) Any person who is only updating germination test data by affixing a supplemental label bearing the new germination data, the germination date, the lot number and his name and address to the package does not require a seed labeler's license.

(3) No person may distribute seed in Montana without obtaining a seed dealer's license from the department for each place where seed is located except:

(a) Persons who distribute seeds only in sealed packages of 10 pounds or less which are properly labeled or;

(b) A Montana certified seed grower when selling certified seed of his own production or;

(c) Persons making bin run sales.

(d) Every seed salesman operating from a location other than the licensed place must be listed on the application for license.

(4) The department shall set by rule the licensing period.

(5) Each license shall cost no more than \$50.00 a year. The fee shall be for application for a license and will be nonrefundable. The department may by rule establish license fees which bear a reasonable relationship to the cost of administering this part.

(6) Application for licenses shall be made in a manner and on forms provided by the department. Such application shall require among other things, the location of each seed conditioning plant for a seed conditioning license, a sample label accompanying a seed labeler license application and a list of seed salesmen for a seed dealer license.

80-5-203. ~~Dealer's license--exception--fee--application--violation.~~

~~(1) No person may distribute seed without obtaining a dealer's license from the department for each place of business. No license is required of a person who distributes seeds only in sealed packages of less than 10 pounds, packed by a licensed seed labeler and bearing his name and address. Each dealer's license shall cost no more than \$20 a year and expires on June 30 of each year. The department may by rule establish license fees which bear a reasonable relationship to the cost of administering this part.~~

~~(2) Application for a dealer's license shall be made in a manner and on forms provided by the department. Such forms shall require among other things, the name of a person domiciled in this state authorized to receive and accept service or legal notices of all kinds.~~

~~(3) Violation of provisions of this section or the distribution of agricultural seeds not legally labeled constitutes adequate grounds for denying a license or denying a license to a dealer.~~

80-5-204 202. Screenings--restrictions on movements.

All screenings whether from seed conditioning plants or other sources represent both a valuable and potentially hazardous product. Their movements are restricted as follows:

(1) the viability of prohibited noxious weed seed as defined in 80-5-101 shall be destroyed before screenings are utilized in feed or in any other way in which they may propagate their kind. However, if these screenings are sold for feed, it shall be the responsibility of the feed buyer to haul under a tarp cover or other tight container until the provisions of this part are met.

(2) the department has authority to ~~may~~ issue <sup>by rule</sup> ~~rules~~ to restrict or exempt from restriction the holding and movement of screenings when the public interest is served by so doing.

80-5-203. Inspection.

To enforce this chapter, the department may enter upon any public or private premises, including any vehicle of transport at any reasonable time to obtain samples, examine seeds and labels, inspect equipment and review records relating to distribution of seed in Montana. If the department takes any samples of seed, upon request they shall pay the first current market value for each sample.

80-5-204. Publication of reports.

The department may publish the names and addresses of persons licensed under this chapter.

80-5-205. Violations.

The following acts caused within the state of Montana are prohibited:

- (1) the failure or refusal to obtain a license as required in 80-5-202 and 80-5-203;
- (2) the misbranding or mislabeling of agricultural seeds;
- (3) the violation or failure to comply with rules issued under the authority of this part.

80-5-206. Rules--promulgated by department.

The department is authorized to promulgate necessary rules as authorized by this <sup>section</sup> ~~part~~. All rules are to be promulgated in accordance with procedures as set forth in the Montana Administrative Procedure Act.

80-5-207. Violation--cancellation of license--enforcement proceedings.

~~(1) The department may cancel any license issued by it when the provisions of this part have been violated by the holder of the license.~~

(1) Distribution of agricultural seeds illegally labeled or failure to comply with this chapter or the rules issued under its authority is sufficient cause for the department to cancel or deny a license.

(2) Any person convicted of violating the provisions of this <sup>Act</sup> ~~part~~ or rules promulgated under the authority of <sup>section 80-5-206</sup> ~~this part~~ is guilty of a misdemeanor and shall be fined not less than \$100 or more than \$300 for the first violation and not less than \$500 or more than \$1,000 for each subsequent violation.

(3) Nothing in this <sup>Act</sup> ~~part~~ shall be construed as <sup>Act</sup> requiring the department or its representatives to report violations of this ~~part~~ when it believes that the public interest will be best served by a suitable notice of warning.

(4) It is the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(5) The department is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this <sup>Act</sup> ~~part~~ or any rule promulgated under <sup>section 80-5-206</sup> ~~this part~~ not withstanding the existence of other remedies at law. An injunction is issued without bond.



(6) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this <sup>Act</sup>~~part~~ may within 30 days bring action in the district court of the county or any county where the alleged violation occurred for trial of the issues bearing upon such act.

80-5-208. Deposit of funds.

All money collected under the provisions of this <sup>Act</sup>~~part~~ shall be deposited to the general fund.

PART 3

CERTIFICATION

80-5-301. Application of sections.

A person, firm, association, or corporation which issues, uses, or circulates any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, or written or printed representation or description pertaining to seeds or plant parts intended for propagation or sale or sold or offered for sale in which the words "Montana state certified", "state certified", "Montana certified", or similar words or phrases are used or employed is subject to 80-5-301 through 80-5-305.

80-5-302. Rules by Montana State University--certification agencies.

Every person, firm, association, or corporation subject to the provisions of 80-5-301 through 80-5-305 shall observe, perform, or comply with all rules and standards for seed certification established or specified by Montana state university, hereafter referred to as the university, as to what crops grown or to be grown in Montana shall be eligible for certification hereunder, as to the conduct of such certification, either by said university directly or by agents or agencies authorized by it for the purpose, and as to standards, requirements, and forms of and for certification hereunder; provided, however, that not more than one agent or agency for certification shall be designated for any one specified crop. No certification within the provisions of 80-5-301 through 80-5-305 shall be made or authorized except by or through said university.

80-5-303. Certification work on self-supporting basis.

Certification work, whether conducted by said university or by an agency designated by it, shall be on a self-supporting basis and not for financial profit.

80-5-304. Withholding certification.

The said university or its designated agency or agencies may withhold certification from any grower of seeds or plant parts who is engaged in or attempting to engage in any dishonest practices for the purpose of evading the provisions of 80-5-301 through 80-5-305, including standards and rules laid down by the said university or its designated agency or agencies to cover certification.

80-5-305. Unlawful use of certification--penalty.

A person, firm, association, or corporation may not issue, make, use, or circulate any document purporting to be or represented as a seed or plant part certification certificate, represent seeds or plant parts as certified, or use the terms "Montana state certified", "state certified", "Montana certified", or similar words or phrases, without the authority and approval of the university. A person, firm, association, or corporation who violates 80-5-301 through 80-5-305 is guilty of a misdemeanor and shall be fined not less than \$100 or more than \$500 for each offense.

# MONTANA SEED GROWERS ASSOCIATION

COOPERATING WITH MONTANA STATE UNIVERSITY  
MEMBER OF ASSOCIATION OF OFFICIAL SEED CERTIFYING AGENCIES

Area Code: 406  
Phone: 994-3516

**Headquarters:**

Montana State University  
Leon Johnson Hall



Not a Marketing Association  
BOZEMAN, MONTANA 59717

EXHIBIT #3

DATE Jan 21, 1987  
HB 220 Rep Gene  
De Mars

February 19, 1987

Representative Duane Compton  
Chairman, House Agriculture, Livestock and Irrigation Committee  
Room 317  
State Capitol  
Helena, MT 59620

Dear Representative Compton:

The Montana Seed Growers Association supports HB 220 as amended by the sub-committee that met February 18, 1987. We feel this bill will help clarify the ambiguities in the present Montana Seed Law. Even though no changes were made in the certification section, we feel that this bill recognizes the importance of certified seed in Montana.

The Association would like to thank Representative Gene DeMars for sponsoring the bill. Thanks to Representatives Gene DeMars, Loren Jenkins and John Patterson for their efforts in providing guidance. We want to thank the House Agricultural Committee for their patience and understanding in giving the seed industry the opportunity to make some minor changes in the bill.

The Association also recognizes the hard work of Tom Gomez in preparing HB 220 and his cooperation during the sub-committee meeting.

Sincerely,

*Richard Barber*  
Richard Barber  
President

*Howard F. Bowman*  
Howard F. Bowman  
Manager

*Loren Wiesner*  
Loren Wiesner  
Executive Director

HFB/ys

cc: Representative Gene DeMars  
Representative Loren Jenkins  
Representative John Patterson  
Tom Gomez

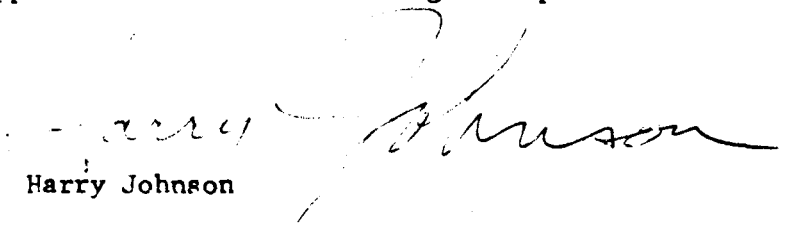
H.B. 220 Proponent

EXHIBIT #4  
DATE Jan 21, 1987  
HB 220 Rep.  
Gene De Mars

Mr. Chairman, committee members,

My name is Harry Johnson. I'm from Townsend, Montana and am a member of and represent the Montana Seed Trade Association.

We had a delegation here last Wednesday when this hearing was postponed. Following Wednesday's hearing, we met with some of your committee and the bill's sponsors. We reviewed the bill and we agreed upon some changes with them. These changes were of a minor nature for the most part. We support the bill with those agreed upon changes.

  
Harry Johnson

*yellow  
copy.*

AMENDMENT TO STATEMENT OF INTENT  
( HB 220 )

1. Page 1, line 6.  
Following: line 5  
Strike: "80-5-101"  
Insert: "section 1"

2. Page 1, line 12  
Following: "that"  
Strike: "the listed"

3. Page 2, line 1.  
Following: "that"  
Strike: "the listed"  
Insert: "seed designated as"

4. Page 2, line 2.  
Following: "seeds"  
Insert: "under current statutes"  
Following: "to"  
Strike: "the"  
Insert: "seed classified as"  
Following: "noxious"  
Strike: "weeds listed by"  
Insert: "weed seeds under"

5. Page 2, line 3.  
Following: "adopted"  
Strike: "under the above mentioned statutes"  
Insert: "by the department"  
Following: "."  
Strike: "The"  
Insert: "However, the department shall include the seeds of leafy spurge and Russian knapweed in the prohibited noxious weed seeds category. In addition, the department shall designate the seeds of spotted knapweed and dyers woad as restricted noxious weed seeds. Thus, except as otherwise provided under this act, the"

EXHIBIT \_\_\_\_\_

DATE Jan 21, 1987

HB 720 - Rep. Gene De Mars

*7-70*

*Harry Johnson  
Seed Processor  
Loren Wisner  
Mt. State  
Howard Bauman  
Mt. State  
ask*

AMENDMENT TO HB 220

1. Title, line 3.  
Following: line 2  
Strike: line 3 in its entirety

2. Title, line 5.  
Following: "AN ACT"  
Insert: "TO GENERALLY REVISE THE AGRICULTURAL SEED LAWS;"

3. Title, line 6.  
Following: "RULE"  
Strike: "THE"

4. Title, line 8.  
Following: " ; "  
Strike: "AND"  
Insert: "TO ESTABLISH CERTAIN LICENSING REQUIREMENTS;"  
Following: "SECTIONS"  
Strike: "80-5-101 AND"  
Insert: "80-5-102 through"  
Following: " , "  
Insert: "80-5-107 through 80-5-113, 80-5-202, 80-5-204, 80-5-205, and 80-5-207,"  
Following: "MCA"  
Insert: " ; REPEALING SECTIONS 80-5-101, 80-5-106, 80-5-201, AND 80-5-203, MCA; AND PROVIDING EFFECTIVE DATES"

*See report  
state dept  
called to  
discuss  
clean up  
situation  
an imp  
ask for sup  
Keith  
DDP*

5. Pages 1 through 9.  
Strike: everything after the enacting clause  
Insert: "NEW SECTION. Section 1. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

*Brings  
up to par  
with other*

(1) "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and mixtures of seeds.

(2) "Approximate percentage" and "approximate number" mean the percentage or number with the variations above and below that value as allowed

according to the tolerance limits defined in the "rules for seed testing" adopted by the association of official seed analysts.

(3) "Bin-run seed sales" means seed sales from one farmer to another farmer with seeds sold "as is" without guarantee or analysis.

(4) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to generally by the seed certifying agencies described in subsection (4)(a).

(5) "Controlling the pollination" means to use a method of hybridization that will produce pure seed which is at least 75% hybrid seed. Hybrid designations must be treated as variety names.

(6) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under the name of flower seeds in this state.

(7) "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross

produced by controlling the pollination and by combining:

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

(c) two or more selected clones, seed lines, varieties, or species.

(8) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs, and legumes.

(9) "Labeling" means to affix, before offering the seed for sale, on the exterior of the container in a conspicuous place a label written or printed in the English language that has not been altered, giving the information required under this chapter.

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

(11) "Name of the state in which the seed was grown" means any of the several states of the United States or a foreign country.



(12) "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

(13) "Percentage of germination" means the percentage of seeds that show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the "rules for seed testing" adopted by the association of official seed analysts.

(14) "Percentage viability" means the percentage of live seed capable of producing a normal seedling under optimum growing conditions, after all forms of dormancy have been overcome, if present.

(15) "Person" means any individual, firm, partnership, corporation, or association.

(16)(a) "Prohibited noxious weed seeds" means the seeds of perennial and other noxious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and that, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice. Prohibited noxious weed seeds include the seeds of:

(i) leafy spurge (*Euphorbia esula*); and

(ii) Russian knapweed (*Centaurea repens*).

(6) "Prohibited noxious weed seeds" includes the seeds or bulbets of any other plant designated as prohibited weed seeds under rules adopted by the department.

(17) "Protected variety" means a variety for which a certificate has been issued by the United States plant variety protection office or for which an application for protection has been filed granting the owner or his authorized agent exclusive rights in the sale and distribution of the variety.

(18) "Restricted noxious weed seeds" means the seeds and bulbets of any plant designated as restricted weed seeds under rules adopted by the department. The term includes the seeds of:

- (i) spotted knapweed (*Centaurea maculosa*); and
- (ii) dyers woad (*Isatis tinctoria*).

(19) "Screening" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed from seed by any kind of cleaning or conditioning.

(20) "Seed conditioning plant" means any place of business that repackages, conditions, blends, treats, or otherwise manipulates agricultural seeds.

(21) "Seed dealer" means any person who offers for sale, sells, or barter agricultural seeds.

(22) "Seed labeler" means any person affixing labels to agricultural seeds, with his name and address

listed as required in 80-5-102 when such seed is distributed in Montana.

(23) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade. The term includes furnishing agricultural seed to growers for the production of a crop on contract.

(24) "Vegetable seeds" means seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

(25) "Weed seeds" means the seeds or bulbets of all plants generally recognized as weeds within this state and includes noxious weed seeds.

Section 2. Section 80-5-102, MCA, is amended to read:

"80-5-102. Labeling of agricultural seeds. Any person offering for sale a package, parcel, or lot of agricultural seeds, as defined in ~~80-5-101~~ [section 1], that contains 1 pound or more of agricultural seeds, whether in package or in bulk, must have affixed to it a label specifying:

- (1) a lot number or other distinguishing mark;
- (2) kind. The name of each kind of seed present in excess of 5% shall be shown on the label and need not be accompanied by the word "kind". When two or more kinds of seed are named on the label, the name of each

kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of 5% and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply to seed of the kind named.

(3) variety, as follows:

(a) the following kinds of agricultural seeds shall be labeled to show the variety name or the words "variety not stated":

alfalfa	oat
barley	pea, field
bean, field	rye
beet, field	safflower
brome, smooth	sorghum
clover, crimson	sorghum-sudan hybrid
clover, red	soybean
clover, white	sudan grass
corn, field	sunflower
corn, pop	trefoil, birdsfoot
fescue, tall	<u>wheat, club</u>
flax	wheat, common
millet, foxtail	wheat, durum

(b) if the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety". The percentage in this case may be shown as "pure seed" and shall apply only to seed of the variety named. If separate

percentages for the kind and the variety or hybrid are shown, the name of the kind and the name of the variety or the term "hybrid" shall be clearly associated with the respective percentages. When two or more varieties are present in excess of 5% and are named on the label, the name of each variety shall be accompanied by the percentage of each.

(4) that the seed is hybrid, if any one kind or kind and variety of seed present in excess of 5% is "hybrid" seed. The percentage that is hybrid shall be at least 95% of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varieties are present in excess of 5% and are named on the label, each that is hybrid shall be designated as "hybrid" on the label. No one kind or variety of seed may be labeled as "hybrid" if the pure seed contains less than 75% hybrid seed. Any one kind or kind and variety that has pure seed which is less than 95% but more than 75% hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show:

(a) the percentage of pure seed that is hybrid seed; or

(b) a statement such as "Contains from 75% to 95% hybrid seed";

(5) state or country of origin, if known, of alfalfa, red clover, white clover, native range

grasses, and field corn other than hybrid. If the origin is unknown, the fact shall be stated.

(6) the approximate percentage of germination of agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the percentage of hard seeds may be added to the percentage of germination and stated as "total germination and hard seed".

(7) the germination date that must include the calendar month and year in which the germination test was completed;

(8) the purity analysis that must include:

~~(7)~~ (a) the approximate percentage by weight of pure seed, meaning the freedom of agricultural seeds from inert matter and from other seeds;

~~(8)~~ (b) the approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in agricultural seeds;

~~(9)~~ (c) the approximate total percentage by weight of weed seeds;

~~(10)~~ (d) the approximate percentage by weight of other crop seeds in agricultural seeds; and

~~(11)~~ (e) the name and approximate number of each kind or species of restricted noxious weed seeds

occurring per pound of ~~agricultural,--vegetable,--or flower-seeds;~~ seed;

~~(12)~~ (9) the full name and address of the seedsman, importer, dealer or agent, or other person, firm, or corporation selling the ~~agricultural~~ seed;

~~(13)~~ (10) in the case of mixtures of agricultural seeds which contain two or more kinds of seed in excess of 5% by weight of each, when sold as mixtures:

(a) name of mixture;

(b) name and approximate percentage by weight of each kind of agricultural seed present in the mixture in excess of 5% by weight of the total mixture;

(c) approximate percentage by weight of broken seeds and other inert matter in the mixture of agricultural seeds;

(d) approximate percentage by weight of weed seeds as defined in ~~80-5-101~~ [section 1];

(e) approximate percentage by weight of other crop seeds in the mixture of agricultural seeds;

(f) name and approximate number of each kind or species of restricted noxious weed seeds occurring per pound of mixtures of agricultural seeds, subject, however, to restrictions ~~as--specified-in~~ established under 80-5-105;

(g) approximate percentage of germination of each kind of agricultural seed present in the mixture in excess of 5% by weight, together with the month and

year the seed was tested. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the hard seed may be added to the percentage of germination and stated as "total germination and hard seed".

(h) full name and address of the vendor of the mixture."

Section 3. Section 80-5-103, MCA, is amended to read:

"80-5-103. Exchange of seed between labelers.

(1) When seed is exchanged or transferred from one seed labeler to another, it shall be accompanied by a shipping document which clearly shows the kind(s) of seed and quantity of each kind. Each container of seed in a lot shall carry appropriate a lot number designation and--shall--be--accompanied--by--mechanical analysis--for--each--lot--so--involved.

(2) While seed is in the possession of a licensed seed labeler, it must carry a lot number on each container at all times. When seed is made available for sale or sold, a complete label must be attached to each container of a lot."

Section 4. Section 80-5-104, MCA, is amended to read:



80-5-104. Labeling of vegetable, flower, and indigenous seeds. (1) Vegetable and flower seeds in packets and in larger containers shall be labeled with the required information as follows:

(a) each container of 1 pound or less:

(i) the commonly accepted name of the kind or the kind and variety of the seed;

(ii) the name and address of the person who labeled the seed or who sells the seed within this state;

(iii) the name and number per pound of each kind of restricted noxious weed seeds as prescribed ~~in~~ by rules adopted under 80-5-105;

(iv) in the case of seed which has a percentage of germination less than the standard prescribed in the Federal Seed Act:

(A) the percentage of germination;

(B) the percentage of hard seed, if more than 1%;

(C) the month and year the test to determine the data required by this section was completed;

(D) the words "below standard germination" in not less than 8-point boldface type;

(b) each container of more than 1 pound:

(i) the name of the kind and variety of the contents;

(ii) the lot numbers or other lot identification;

(iii) the name and number per pound of each kind of restricted noxious weed seeds as prescribed in by rules adopted under 80-5-105;

(iv) the percentage of germination and whether the percentage of germination meets or exceeds the standard established in the Federal Seed Act;

(v) the percentage of hard seed, if more than 1%;

(vi) the month and year the test to determine the data required by this section was completed;

(vii) the name and address of the person who labeled the seed or who sells the seed within this state.

(2) Indigenous seeds, as defined in ~~80-5-101~~ [section 1], in amounts of 1 pound or more, whether in package or bulk, must be labeled with the following information:

(a) the statement "Labeled only for reclamation purposes";

(b) lot number or other distinguishing mark;

(c) the common name, genus, species, and subspecies when applicable, including the name of each kind of seed present in excess of 5%. When two or more kinds of seed are named on the label, the label shall specify the percentage of each. When only one kind of seed is present in excess of 5% and no variety name or type designation is shown, the percentage must apply to seed of the kind named. If the name of the variety is

given, the name may be associated with the name of the kind. The percentage in this case may be shown as "pure seed" and must apply only to seed of the variety named.

(d) state or country of origin, if known. If the origin is unknown, that fact shall be stated.

(e) the approximate percentage of viable seed, together with the date of test. When labeling mixtures, the percentage viability of each kind shall be stated.

(f) the approximate percentage by weight of pure seed, meaning the freedom of seed from inert matter and from other seeds;

(g) the approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter;

(h) the approximate total percentage by weight of other seeds;

(i) the name and approximate number of each kind of species of restricted noxious weed seeds occurring per pound of seed;

(j) the full name and address of the person, firm, or corporation selling the seed."

Section 5. Section 80-5-105, MCA, is amended to read:

"80-5-105. Prohibitions. A person, firm, corporation, partnership, or association may not sell or transport for use in planting in this state any agricultural, vegetable, or flower seed that:

(1) contains prohibited noxious weed seeds;  
 (2) contains restricted noxious weed seeds in excess of either:

(a) the maximum numbers per pound allowed under rules adopted by the department; or

(b) the maximum numbers per pound as follows:

Common name	Species	Number of seeds per pound
doeder	{Euscuta-spp-}	18
<u>dyers woad</u>	<u>(Isatis tinctoria)</u>	<u>0</u>
blue-lettuce	{Lactuca-pulchella}	27
St.-Johnswort	{Hypericum-perforatum}	27
oxeye-daisy	{Chrysanthemum-leucanthemum}	90
spotted knapweed	(Centaurea maculosa)	18 <u>0</u>
hoary-alyssum	{Berteroa-incana}	9
wild oats	(Avena fatua)	45

(per pound of grass seed)

9

(per pound of cereal seed)

buckhorn	{Plantago-lanceolata}	90
plantain		
chickweed	{Stellaria-spp-}	9
curly-dock	{Rumex-crispus}	45

(3) contains in excess of 2% or more of weed seed;

(4) is offered or exposed for sale more than 12 calendar months from the last day of the month in which the germination test was completed. This 12-month limitation does not apply when seed is packaged in hermetically sealed containers within 12 months after harvest. The container must be conspicuously labeled in not less than 8-point type to indicate that:

(a) the container is hermetically sealed;

(b) the seed has been preconditioned as to moisture content;

(c) the germination test is valid for a period not to exceed 18 months from the date of the germination test for seeds offered for sale on a wholesale basis and for a period not to exceed 36 months for seeds offered for sale at retail;

(d) the germination of vegetable seed at the time of packaging was equal to or above standards prescribed in the Federal Seed Act of August 1939, 7 U.S.C. 1551 through 1610, amended October 15, 1967, with subsequent revisions;

(5) is represented in any manner to be for lawn seeding purposes, unless it contains at least 50% pure seed of fine-textured perennial species which shall be specified by rules under this part. However, grass mixtures which do not contain 50% pure seed of fine-textured perennial grasses may be sold. When these grass mixtures are contained in packages of 25 pounds

or--less,--they--shall--carry--the--statements:--"Not  
recommended--for--a--fine-textured--perennial--turf,  
Satisfactory--for--a--temporary-ground--cover--or--where  
coarse-grass--is--not--objectionable."--A--definition--of  
fine-textured-varieties-to-be--adopted-in-the-rules--is  
as-follows:

-----{a}--bluegrasses--all--varieties--except--Canada  
bluegrass--{Poa--compressa},--annual--bluegrass--{Poa  
annua},--and--rough--bluegrass--{Poa--trivialis},

-----{b}--chewings--red--fescue--and--all--improved  
varieties;

-----{c}--creeping--red--fescue--and--all--improved  
varieties;

-----{d}--bentgrass--all--varieties;

-----{e}--fine-textured-ryegrasses;

{6} (5) is labeled, advertised, or otherwise  
represented as being certified seed of any class  
thereof unless:

(a) it has been determined by a seed certifying  
agency that such seed conforms to standards of purity  
and identity as to kind, species (and subspecies, if  
appropriate), or variety; and

(b) the seed bears an official label issued for  
such seed by a seed certifying agency certifying that  
the seed is of a specified class and a specified kind,  
species (and subspecies, if appropriate), or variety;

(7) (6) is labeled with a variety name for which a U.S. certificate of plant variety protection has been issued or applied for under the provisions of the Plant Variety Protection Act (7 U.S.C. 2321, et. seq.) without the authority of the owner of the variety or is labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which the certificate or application for "protection" specifies sale only as a class of certified seed, provided that seed from a certified lot may be labeled as to variety name when used in a mixture by or with approval of the owner of the variety."

Section 6. Section 80-5-107, MCA, is amended to read:

"80-5-107. Exemptions. ~~Agricultural-seeds~~ Seed or mixtures of same shall be exempt from the provisions of this part:

(1) when possessed, exposed for sale, or sold for food purposes only;

(2) when sold to merchants or dealers to be conditioned before being sold or offered for sale for seeding purposes;

(3) when in store for the purpose of conditioning or not possessed, sold, or offered for sale for seeding purposes within the state."

Section 7. Section 80-5-108, MCA, is amended to read:

"80-5-108. Inspection Analysis by grain-and seed laboratory -- reports. The grain-and seed laboratory of the agricultural experiment station shall inspect, analyze, and test seeds sold or offered or exposed for sale in this state at a time and place and to the extent the director of the agricultural experiment station and the department determine. The laboratory shall report to the department all violations as they appear. It ~~shall~~ may also annually before September 1 make a report to the department of all tests made and the results, which may be published by the department. ~~The laboratory and the department shall have free access at all reasonable hours to all premises or structures to make examination of any seeds or any other premises of a warehouse, elevator, or railway company. Upon tendering payment at the current value, the department may take any sample of seeds.~~"

Section 8. Section 80-5-109, MCA, is amended to read:

"80-5-109. Testing of submitted samples. The grain and seed laboratory shall analyze any official seed samples taken from seed lots offered for sale in the state and or submitted by the department using methods such as those established under the Federal Seed Act



and the procedural guidelines developed by the association of official seed analysts."

Section 9. Section 80-5-110, MCA, is amended to read:

"80-5-110. Laboratory testing of samples -- fees. Any citizen of this state may request the grain--and seed laboratory to examine, analyze, and test samples of seed upon payment of the fee and compliance with rules governing the submission of seed samples for such service. Samples of seed analyzed and tested shall be charged for at rates determined-jointly established by the rule of the department and--the-director--of--the grain--and--seed--laboratory as recommended by the agricultural experiment station. All fees collected by the grain-and seed laboratory shall be used to defray the expenses incurred by the laboratory under ~~80-5-101~~ 80-5-102 through 80-5-113."

Section 10. Section 80-5-111, MCA, is amended to read:

"80-5-111. Certificate of test presumptive evidence. The certificate of the grain--and seed laboratory, giving results of any examinations, analyses, or tests of any seed samples made under the authority of the department, is presumptive evidence of the correctness of the facts stated in it."

Section 11. Section 80-5-112, MCA, is amended to read:

"80-5-112. Enforcement -- rules. The department shall administer and enforce ~~80-5-101~~ 80-5-102 through 80-5-113. For that purpose, the department may adopt rules. The department may issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of ~~agricultural~~ seed which the department finds in violation of ~~80-5-101~~ 80-5-102 through 80-5-113. The order shall prohibit further sale of the seed until the department has evidence that the law has been complied with. The seed may not be confiscated or destroyed. Upon proper correction, by reconditioning, labeling, or otherwise, and when, in the judgment of the department, the requirements of ~~80-5-101~~ 80-5-102 through 80-5-113 have been met, the stop sale order shall be lifted and the seed may be sold. The department shall adopt all necessary rules relating to the agricultural experiment station's duties under ~~80-5-101~~ 80-5-102 through 80-5-113."

Section 12. Section 80-5-113, MCA, is amended to read:

"80-5-113. Penalty. Any person, firm, or corporation which sells or offers or exposes for sale or distribution in the state any ~~agricultural--seeds~~ seed for seeding purposes without complying with the requirements of ~~80-5-101~~ 80-5-102 through 80-5-113 is guilty of a misdemeanor and upon conviction shall be fined not less than \$100 or more than \$300 plus costs

of such prosecution and upon conviction of the second or any subsequent offense shall be fined not less than \$500 or more than \$1,000 plus costs of such prosecution."

Section 13. Section 80-5-202, MCA, is amended to read:

"80-5-202. Licensing ---issuance -- application -- fee----bonding----insurance. (1) All seed conditioning plants and seed--labelers shall obtain a license from the department for each plant before doing business in this state; however, a Montana-certified seed grower, when conditioning or-labeling--certified seed from his own production, is not required to be licensed under this part. Bin-run--seed--sales--from--one--farmer--to another-are-exempt-from-this-part.

(2) Each conditioning plant must post in a conspicuous location in the facility:

(a) its fees for conditioning services; and

(b) the license designation for the facility.

~~(2)-All-licenses-are-issued-on-a-fiscal-year-basis and-expire-on-June-30-of-each-year.~~

(3) All seed labelers and growers who label or affix written claims to their seed shall obtain a license from the department before doing business in Montana. The following persons, however, are excluded from the licensing requirements under this subsection:

(a) a Montana certified seed grower when labeling certified seed from his own production; and

(b) any person who updates germination test data by affixing to the package of seed a supplemental label bearing new germination data, the lot number, and his name and address.

(4) No person may sell or distribute seed in Montana without obtaining a seed dealer's license from the department for each place where seed is located, except for:

(a) a person who distributes seed only in sealed packages of 10 pounds or less that are properly labeled;

(b) a Montana certified seed grower when selling certified seed from his own production; and

(c) a person when making bin-run seed sales.

(5) Each person selling seed from a location other than the licensed place must be listed on the application for license.

~~(3) Application for license is made in a manner and on forms provided by the department. A nonresident shall file a written power of attorney designating the secretary of state as his agent, and the power of attorney shall be so prepared and in such form as to render effective the jurisdiction of the courts of the state of Montana over the nonresident applicant. A nonresident who has a duly appointed resident agent~~

2

upon whom process may be served as provided by law is not required to designate the secretary of state as his agent. The department shall be furnished with a certified copy of the designation of the secretary of state or of a resident agent.

(6) The department shall set by rule the period for which a license is issued under this section.

~~(4)~~ (7) The department may establish by rule minimum standards for equipment and handling procedures for facilities to be licensed and may carry out inspections during normal business hours to determine that these standards are being adhered to.

~~(5)~~ (8) Each license shall cost no more than \$50 a year. The fee must include the cost of application for a license and must be nonrefundable. The department may by rule establish license fees which bear a reasonable relationship to the cost of administering this part.

~~(6)~~ Failure on the part of a licensee to comply with the rules issued under the authority of this section is sufficient cause for cancellation of a license by the department, provided the licensee is given a reasonable opportunity to correct inadvertent and nonrecurring deficiencies.

(9) An application for a license under this section must be made in a manner and on forms provided

by the department. Such application must contain among other things:

(a) the location of each seed conditioning plant if the application is for a seed conditioning plant license;

(b) a sample label if the application is for a seed labeler license; and

(c) a list of persons selling seed if the application is for a seed dealer's license."

Section 14. Section 80-5-204, MCA, is amended to read:

"80-5-204. Screenings -- restrictions on movements. All screenings whether from seed conditioning plants or other sources represent both a valuable and potentially hazardous product. Their movements are restricted as follows:

(1) The viability of prohibited noxious weed seed as defined in 80-5-101 [section 1] shall be destroyed before screenings are utilized in feed or in any other way in which they may propagate their kind. However, if these screenings are sold for feed, it shall be the responsibility of the feed buyer to haul under a tarp cover or other tight container until the provisions of this part are met.

(2) The department ~~has authority to~~ may issue adopt rules to restrict or exempt from restriction the

73

holding and movement of screenings when the public interest is served by so doing."

Section 15. Section 80-5-205, MCA, is amended to read:

"80-5-205. Violations. The following acts caused within the state of Montana are prohibited:

(1) the failure or refusal to obtain a license as required in 80-5-202 and 80-5-203;

(2) the misbranding or mislabeling of agricultural seeds seed;

(3) the violation or failure to comply with rules issued under the authority of this part.

Section 16. Section 80-5-207, MCA, is amended to read:

"80-5-207. Violation -- cancellation of license -- enforcement proceedings. ~~(1) The department may cancel any license issued by it when the provisions of this part have been violated by the holder of the license.~~

Distribution of seeds that are not legally labeled or failure to comply with this chapter or rules issued under its authority constitutes sufficient grounds for the department to cancel or deny a license to a licensee, provided that the licensee is given a reasonable opportunity to correct inadvertent and nonrecurring deficiencies.

(2) Any person convicted of violating the provisions of this part or rules promulgated under the

authority of this part is guilty of a misdemeanor and shall be fined not less than \$100 or more than \$300 for the first violation and not less than \$500 or more than \$1,000 for each subsequent violation.

(3) Nothing in this part shall be construed as requiring the department or its representatives to report violations of this part when it believes that the public interest will be best served by a suitable notice of warning.

(4) It is the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(5) The department is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this part or any rule promulgated under this part notwithstanding the existence of other remedies at law. An injunction is issued without bond.

(6) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this part may within 30 days bring action in the district court of the county or any county where the alleged violation occurred for trial of the issues bearing upon such act."



NEW SECTION. Section 17. Inspection. To enforce this chapter, the department may enter, at reasonable times, any public or private premises, including any vehicle of transport, and upon entry to the premises, the department may obtain samples, examine seeds and labels, inspect equipment, and review records relating to distribution of seed in Montana. The department may take any sample of seeds as may be required; however, the department shall pay, upon request, the firm current market value for each sample.

NEW SECTION. Section 18. Publication of reports. The department may publish the names and addresses of persons licensed under this chapter.

NEW SECTION. Section 19. Repealer. Sections 80-5-101, 80-5-106, 80-5-201, and 80-5-203, MCA, are repealed.

NEW SECTION. Section 20. Extension of authority. Any existing authority of the department of agriculture to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 21. Effective dates.

(1) Section 20 and this section are effective on passage and approval, except rules adopted by the department may not take effect until October 1, 1987.

(2) The remaining sections of this act are effective October 1, 1987.

-END-

VISITORS' REGISTER

Ag. Livestock & Irrig. COMMITTEE

BILL NO. HB 220

DATE Jan. 21, 1987

SPONSOR Rep. De Mars

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Ralph Peck	Dept of Ag	✓	
J. Brunner	Grange - Calistoga California	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Ag Limestone Drug COMMITTEE

BILL NO. HB 184

DATE Jan. 21, 1987

SPONSOR Rep Brandewie

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Edi Williams</i>	<i>Seneca Williams</i>		
<i>Roy Sp...</i>	<i>...</i>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.