

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN JOE BARNETT**, on January 31, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Joe Barnett, Chairman (R)
Rep. John "Sam" Rose, Vice Chairman (Majority) (R)
Rep. Don Larson, Vice Chairman (Minority) (D)
Rep. Dick Green (R)
Rep. Harriet Hayne (R)
Rep. Rick Jore (R)
Rep. Gay Ann Masolo (R)
Rep. Judy Murdock (R)
Rep. Karl Ohs (R)
Rep. George Heavy Runner (D)
Rep. William M. "Bill" Ryan (D)
Rep. Dore Schwinden (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Kenneth Wennemar (D)

Members Excused: Rep. Jon Ellingson

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Patti Borneman, Substitute Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 106, SB 108, HB 278
Executive Action: SB 106 BE CONCURRED IN
SB 108 BE CONCURRED IN
HB 278 DO PASS
HB 235 DO PASS
HB 212 DO PASS AS AMENDED

HEARING ON SB 106

Tape 1 - Side A

Opening Statement by Sponsor:

SEN. LOREN JENKINS, SD 45, said that SB 106 had some amendments added since it was first introduced. Under section 1, the Senate changed the notification deadline from 60 to 90 days. He said 60 days was current law. He said section 2 was the "meat of the bill" and stipulates that if someone plans to file a lien for spraying or crop dusting they must notify the farmer by certified mail 30 days before they file the lien.

Proponents' Testimony:

Bob Stephens, Montana Graingrowers Association said he supported SB 106.

John Semple, Association of Montana Aerial Applicators, stated their support of this bill.

Larry Grown, Agricultural Preservation Association said they think it's a good bill and expressed support.

Bill Leary, Montana Bankers Association, said that as the bill passed the Senate they learned about the merits of the bill and expressed support.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SAM ROSE asked SEN. JENKINS why aerial seeding and fertilizing isn't included in the bill. SEN. JENKINS said that the bill only addresses the notification of farmers who have not paid for the services of an aerial applicator.

REP. ROSE said that during the last session they passed a bill addressing fertilizer spraying but the language was different. He wondered why it was left off the new bill.

SEN. JENKINS replied that he was only concerned with the section of the bill pertaining to the change from 60 to 90 days.

Closing by Sponsor:

SEN. JENKINS closed by saying that the bill is looked upon favorably by many and he hoped the Committee would pass it.

HEARING ON HB 278

Opening Statement by Sponsor:

REP. DON HOLLAND said this bill is an important piece of legislation for the county weed districts. He said it "reinstates liability restrictions and safety information and training requirements for county noxious weed districts." He explained the amendments as described on **Exhibit 1**.

Proponents' Testimony:

Gary Gingery, Montana Department of Agriculture, said he is testifying for their director, **Leo Giacometto**. He said they are in favor of passage of this bill because it is beneficial to county weed districts. It defines a weed district's liability for gross negligence, but also insures that weed districts train their mixers, loaders and applicators on the proper use of herbicides and use of protective clothing for their employees, and educate them on health hazards and proper application techniques. He said the safety information would minimize general negligence.

Vince Thomas said he served as the **Rosebud County Weed District Supervisor and Chairman of Montana Weed Supervisors Support Committee of the Montana Weed Control Association**. He said they would like the Committee's support to pass this bill.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. DORE SCHWINDEN asked **REP. HOLLAND** to describe what other kinds of liabilities there are, and what other kinds of negligence other than gross negligence the bill addresses. He referred the question to a weed district supervisor. **Mr. Thomas** gave examples of possibly spraying someone's crop while knowing they shouldn't do so, or spraying where a label does not recommend or where spraying would be a violation of federal or state laws and said these are the kinds of things that would constitute gross negligence. He said the bill would help them to afford liability insurance.

REP. SCHWINDEN said he supports their efforts, but wondered what kinds of activities would constitute less than gross negligence. For instance if just a corner of his crop was sprayed, would it not be considered "gross." He asked what the "dividing line between gross and kind of semi-gross" was. **Mr. Thomas** said he believed that there were situations such as that described by the representative and that the weed district is held responsible in those cases. He said gross negligence would be "doing something

that would be definitely against the law or the label." He referred the question to **Mr. Gingery**.

REP. SCHWINDEN restated his question to **Mr. Gingery** and said he was concerned that saying "gross negligence" would not afford adequate protection to the weed districts. "I'm afraid that a sharp attorney or somebody else could say, well, you sprayed half of this field, that's gross. I guess I'm wondering what the legal ramifications are."

Mr. Gingery replied that gross negligence is "when a person willfully or intentionally, knowingly, goes out and does some act." He said cases where a person should have known better, but didn't intentionally cause a small drift problem, would be general negligence. However, if the person knew the wind was strong enough to cause a drift problem and a crop was destroyed, this would be gross negligence. If the wind was moderate and some still drifted, that probably wouldn't be considered gross negligence.

REP. ROSE asked **Mr. Gingery** about the impact on shelter belts and if this bill would exempt the county from responsibility for this.

Mr. Gingery explained that the bill addresses the issue of negligence and a party potentially suing the weed district for causing that gross negligence. He cited the Montana Pesticides Act wherein it states shelter belt damage due to drift allows the owner to sue the weed district for that damage. He said the insurance they can carry provides only for damage due to gross negligence.

REP. ROBERT STORY asked **Mr. Gingery** about the termination date of 1991 and if an extension occurred. **Mr. Gingery** said the law was passed in 1987. In 1991 the termination date was extended to 1995. He said this bill would further extend it to 1999.

Closing by Sponsor:

REP. HOLLAND thanked the Committee for the questions asked and said they should be able to separate the issues of gross negligence and liability insurance as it relates to damage done unintentionally, and said that the county would still be liable for some of that damage. He said he didn't know why the bill terminates every four years and would find out. He said there was probably a need for a sunset on this type of legislation. He asked the Committee to consider a do pass vote.

HEARING ON SB 108Opening Statement by Sponsor:

SENATOR RIC HOLDEN, Glendive, SD 1, said this bill pertains to the alfalfa leafcutter bee industry. He said that in years past the industry brought to the Legislature problems that needed to be corrected with imported bees, certification requirements and methods of moving equipment. He said that now that those problems have been resolved, they would like restrictions and regulations "repealed ... so that they can continue their industry unhampered." He said the Montana Alfalfa Seedgrowers Association endorsed this bill as the major industry "spokesman." He said it would become effective upon approval by the legislature. He said the Department of Agriculture approved the bill.

Proponents' Testimony:

REP. BETTY LOU KASTEN, HD 99 passed out a letter referred to by **SEN. HOLDEN (Exhibit 2)** and recalled the necessity for this legislation when it was first passed to address the needs of this new organization. They needed regulating at the beginning, but now that it's been in place for four to five years, they don't feel that regulation is necessary, such as a yearly upgrade. She urged a do pass vote.

Gary Gingery, testifying for Leo Giacometto of the Department of Agriculture, said the department supports "this effort to modify the Montana Alfalfa Leafcutter Bee law" and said they've worked with the industry on the revisions and endorse it. He said the department commended the Leafcutter Bee Advisory Committee and the seed industry for updating and revising the law.

Opponents' Testimony: NoneInformational Testimony: NoneQuestions From Committee Members and Responses:

REP. KARL OHS asked **SEN. HOLDEN** why imported bees wouldn't need to be certified anymore as shown on page 3, line 7 of the bill. **SEN. HOLDEN** directed the question to the Department of Agriculture. **Mr. Gingery** replied that the industry has found that the control of the disease, even under strict conditions, could still be the responsibility of the beekeeper and he described the methods used to test bees and detect disease. **SEN. HOLDEN** said when they first drafted the legislation, it was "a little bit overkill. They thought that maybe the disease was coming from out of state or someplace else." **Mr. Gingery** said that this was their misconception, but now felt that disease could be controlled by each individual beekeeper.

REP. GEORGE HEAVY RUNNER asked for a definition of an alfalfa leafcutter bee. **Mr. Gingery** replied that it is not a honey bee,

but a bee that helps in the pollination process of alfalfa and is more efficient than honey bees. He said these bees help to get a better seed for harvest.

Closing by Sponsor:

SEN. HOLDEN urged the Committee to give this bill a strong vote of approval.

CHAIRMAN BARNETT asked REP. KASTEN if she would carry this bill on the floor and she said she would. He closed the hearing on this bill and asked the Committee if they were comfortable taking executive action on SB 108.

EXECUTIVE ACTION ON SB 108

Motion: REP. HARRIETT HAYNE MOVED THAT SB 108 BE CONCURRED IN.

Discussion:

REP. SCHWINDEN asked what the need for the immediate effective date was and if the act was currently expiring.

REP. STORY said he guessed it might have something to do with the practice of moving the bees around. CHAIRMAN BARNETT agreed and said that the pollination period would be June and July. Making it effective upon approval would be more advantageous to the industry.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON SB 106

Motion: REP. JAY STOVALL MOVED THAT SB 106 BE CONCURRED IN.

Discussion:

REP. DON LARSON asked why aerial seeding and fertilizing are not covered under this bill and asked Connie Erickson, Legislative Council, to provide an explanation and she did. REP. LARSON thought it would make sense to be "all inclusive" and said "if you're going to file a notice that you're going to foreclose on 'em for crop dusting, why wouldn't you file a notice for fertilizing and seeding?"

REP. OHS responded that he discussed this with REP. KASTEN and said that all liens should be made the same and wondered if the procedure was standard for the different types of aerial applications. Ms. Erickson said that Title 71, chapter 3, covers many different types of liens and the section being amended with this bill is in part 9, which is entitled "Crop or grain liens for spraying or dusting," and said that's why it specified

spraying or dusting. She gave examples of the other kinds of liens provided for in the statute. She said the reason seeding and fertilizing were not included was that it was not appropriate for the statute that was being amended in this bill.

Vote: The motion carried unanimously.

CHAIRMAN BARNETT said that REP. MARIAN HANSON would be asked to carry the bill on the House floor.

EXECUTIVE ACTION ON HB 278

Motion/Vote: REP. ROBERT STORY MOVED THAT HB 278 DO PASS. The motion carried unanimously.

EXECUTIVE ACTION ON HB 235

Motion: REP. DON LARSON MOVED THAT HB 235 DO PASS.

Discussion: REP. LILA TAYLOR asked what it meant to eliminate the state's immunity from liability for actions of the Alfalfa Seed Committee, as stated in the title of the bill.

Ralph Peck, Department of Agriculture, explained that the law said that the committee was responsible for liability and it was the only state committee that they researched that could be held liable. He said when they prepared the bill they added the provision that if someone was asked to serve on a committee in state government "they should not be exposed to that liability; they should be treated equally with all other state committees when they are appointed or asked to serve our industry on the state's behalf."

REP. STORY asked Mr. Peck to respond to a question pertaining to page 3, line 10-13, the text that is struck out.

Tape 1 - Side B

REP. STORY asked Mr. Peck to explain the difference. He explained that the part of the bill that was struck has to do with the surcharge which has already met the \$2.5 million cap and has been removed. The portion that has been inserted has to do with administrative funding that was required when monies from the general fund were low. He said that the last audit found that this was not specifically provided for in the law and should be. He said, in essence, the second sentence says "you can use the proceeds to administer the law, but in doing so, you can't exceed 12% of the expenses."

REP. STORY asked if the 12% was comparable to what they're already using for administration. Mr. Peck said they are at 9.9% currently.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON HB 212

Connie Erickson explained the "gray bill" and said there are two sets of amendments. She passed them around along with the gray bill.

CHAIRMAN BARNETT said that the gray bill is "one that's been put together for us to look at and to study and that's what it should look like when we're through with the amendments. We do not vote on the gray bill."

Ms. Erickson said they should move adoption of the bill and then move adoption of the amendments and then discuss it.

Motion: REP. OHS MOVED THAT HB 212 DO PASS.

Discussion: **Ms. Erickson** explained the amendments of January 23, 1995 and said they came from the Stockgrowers Association and that Mr. Bloomquist talked about the amendments in his testimony. She said that amendment #2 puts in language that will protect agreements between someone who owns leases or has possession of land and the person who is the lessor or seller, when it comes to assessing the civil penalty for the violation of a compliance order. She said the Stockgrowers wanted to be sure that there were some protections for people, so that when the land is sold or leased, and the new owner or lessee violated this law, the former owner/lessor would not be held liable for their actions.

They also returned to original language stipulating where the department could go to get a temporary injunction. The original law said the temporary injunction could be gotten from the district court in the county where the violation occurred. She said the bill changed that and said the injunction had to come from the first judicial district in Lewis and Clark County. The Stockgrowers asked that the original language be returned to the bill, so that now the injunction would be sought in the district court of the county where the violation occurred. She said those changes were made in two different places.

Ms. Erickson said they also changed language pertaining to the Endangered Species standard and what constitutes a major violation of the law. She said the original language stated "that the 'violation affected human life, welfare and safety,' and they changed it to read 'significantly harm.'" She said the gray bill includes these amendments and can be found on page 6, subsection 3b; page 9 at the top; page 14, subsection b.

REP. ROSE asked **Ms. Erickson** who would be responsible for a pesticide spill, for example, if done by someone leasing land. She replied that the lessee would be the responsible party under this bill. She said the language was put in to protect the

lessor. **REP. ROSE** asked who would be held liable if groundwater was polluted by a pesticide. She said if the lessee was responsible for the spill, the lessee would probably still be liable.

REP. LARSON said that if the lessor did not have liability spelled out in the lease agreement, they would be left with the responsibility of damages made by the lessee.

REP. ROSE asked if the owner would be protected under this bill.

Ms. Erickson said that the reason the Stockgrowers wanted this section in the bill was to provide that protection.

REP. WILLIAM RYAN cited page 6, paragraph 3b, and read "the provisions of this subsection are not intended to void or affect indemnity or liability of grievance between the person who owns leases or has possession or control." He said any agreements they had beforehand are intact, the bill will not change them. He said the person who has the liability, maintains it.

REP. LARSON said that he owns a piece of property with a laundromat in Seeley Lake and the tenant who operates the laundromat has a lease with him. He's asked him to indemnify him against any groundwater pollution, but he said lawyers have told him that the lease "is as good as the paper it's written on and no more, because ultimately the liability for any pollution accrues to the owner of the property." He said he can ask for "indemnification, but if they don't have deep pockets and I happen to have deeper pockets than they do, you know who they're going to go after."

REP. RYAN replied that if that's the case, "we're not going to change that no matter how tough we put the language in this law. This law maintains present law and I think it's the best we can do, we should go with it."

REP. STORY said they should remember that "they're not talking about mitigating all the damages, what we're talking about is this compliance order that the department issues and who they're going to issue it to. That's what this section deals with. If they can't find the lessor, who do they give the compliance order to."

Motion: **CHAIRMAN BARNETT** ASKED FOR A VOTE ON THE AMENDMENTS OF JANUARY 23, 1995, AS EXPLAINED BY **MS. ERICKSON**.

Vote: The motion to adopt the first set of amendments carried unanimously.

Motion: **REP. KARL OHS** MOVED THAT THE SECOND SET OF AMENDMENTS BE APPROVED.

Discussion: Ms. Erickson asked the Committee to refer to the original bill on page 4, subsection 3b and 3c. She said it had to do with the compliance orders and this is new language. The old law said that the department may issue a compliance order to a person violating the provisions of this section or any other requirements and the compliance order may be issued to any person "including the person's employees, agents or subcontractors." She said this section of the sentence was struck and also new language that identified who to issue the compliance order to if they can't determine who is liable. She said this is what "triggered the amendments by the Stockgrowers Association." She said that REP. ANDERSON suggested they strike all the new language in (b) and (c) and suggested that they go back to the old language which is what the second set of amendments accomplish, except for the new language in subsection (d).

REP. LARSON said they were concerned about those two sections "because it deleted the private cause of action for an injured party, or an interested party, and by striking that you restore that type of cause of action." He said a Sierra Club member was concerned about this and he concurred with the intent of the amendment.

REP. STOVALL asked if John Bloomquist submitted these amendments.

Ms. Erickson replied no, they were recommended by REP. ANDERSON.

REP. OHS asked if the consideration of both amendments cancels one out over the other.

CHAIRMAN BARNETT said they would not. Ms. Erickson said she had questioned whether the second set of amendments were necessary if they adopted the first set. She thinks they will "fit together okay."

REP. STORY asked if anyone from the Department of Agriculture could comment on the amendments. Mr. Gingery said that acceptance of both sets of amendments would be agreeable to the Department and said "basically, how we would manage compliance orders...is we'd have to define the person that caused the problem. The current owner if they caused it, or the previous owner, and that's the person, the only person that we could assign the compliance order to. In terms of the provision dealing with indemnity and liability agreements, that does provide direction to the department in terms of how we operate when we deal with compliance orders and it is helpful to us to get this guidance."

CHAIRMAN BARNETT asked Mr. Gingery if they consulted with the Sierra Club about these amendments and he said he talked to Deborah Smith who said the original language was acceptable to them and also understood from her that the language in the gray bill was not objectionable.

Vote: The motion to adopt the second set of amendments carried unanimously.

Discussion: CHAIRMAN BARNETT told the Committee that they now have HB 212 as amended and asked if there was any discussion.

REP. CLIFF TREXLER asked for clarification on grammar, page 11 of the gray bill or page 7 of the original bill, "misuse of a pesticide that results in proven harm or exposure to human health." He said this is confusing because "exposure to human health" doesn't make sense.

Ms. Erickson clarified the language and said what "they were trying to do is to say that a major violation would be a misuse of a pesticide that results in proven harm to human health or that results in exposure to harm from the pesticide." She said the sentence could be reworked.

Mr. Gingery explained the intent of the bill and said "both proven harm and proven exposure" would be defined as misuse.

REP. STORY asked the Department to further define this section of the bill and asked the chairman if he could proceed with questions about it. He said the section on proven harm to human health is clear. He asked if it was the "department's intention that misuse of a chemical that exposes human health to harm is a concern of this legislation."

Mr. Gingery said that "labels say do not expose people to this pesticide. ... If we can prove that incidental people were exposed to that pesticide it could be considered a major violation."

REP. STORY referred to harm to agricultural commodities and asked if that would be a major violation. Mr. Gingery said it would be considered such, "either harm or exposure." REP. STORY said the bill does not say that.

REP. KENNETH WENNEMAR asked if it would be more accurate to strike "human health" and replace it with "human beings."

REP. TREXLER said this doesn't satisfy his complaint, whether exposed to human health or human beings. He thinks exposure needs to be tied to the pesticide.

Mr. Gingery said that their intention is "proven harm or proven exposure to humans or human beings or to agricultural commodities, livestock."

REP. OHS asked if "the bill says just exposure without any harm."

Mr. Gingery said that they have had cases where individuals have been exposed due to drift by aerial application but the current law says you have to have harm to consider it a major violation

and they want exposure alone to be considered a major violation. He said the labels say that no exposure should occur.

REP. TAYLOR suggested "proven harm or proven exposure."

Mr. Gingery said that would be fine as long as it can be proven.

Ms. Erickson thought it could be rewritten to more accurately reflect the intent.

CHAIRMAN BARNETT asked **Maureen Cleary-Schwinden** to comment. She said she's not speaking on behalf of **Women in Farm Economics** but feels that the agricultural community has an interest in the issue. She cited the subsection under "i" where misuse is defined, and misuse of a pesticide as a proven exposure to humans. She said the agricultural community would be concerned that the term "or exposure" is too broad, but "proven exposure" may address those concerns.

CHAIRMAN BARNETT asked if they wanted to put in "proven exposure to humans" and drop the word "health."

REP. STORY asked if he could offer his suggestion and said "I think we're talking about two things that will never work as long as you keep 'em in the same sentence." He suggested the following: "A major violation [would be the] misuse of a pesticide that results in a) proven harm to human health, commodities, livestock or the environment, and b) proven exposure of humans, commodities, or livestock to the pesticide." He said that clarifies what they want. He offered this as a substitute amendment and asked **REP. TREXLER** what he thought.

REP. TREXLER thought it could be simpler, but wondered if simplicity was their goal. He suggested "for the proven exposure" after "human health."

REP. LARSON said that wouldn't work, because "you would have excluded humans from exposure and the whole intent of the bill is to identify exposure as a major violation."

REP. DICK GREEN asked how important it is to keep "exposure" in the sentence.

Tape 2 - Side A

REP. LARSON said he disagreed that exposure could be eliminated from this section. He said exposure is to be considered a major violation and "I think it's imperative that we keep that intact in the bill. You don't just have to prove harm, you just have to prove exposure. Because a lot of the damage is latent and subsequent, and exposure is very important in the bill. I would recommend to the Committee that we adopt the Story amendment."

CHAIRMAN BARNETT asked **REP. STORY** if he wished to make a motion on his amendment and to restate his proposed amendment.

REP. STORY read his amendment as follows: "Sub (i). Misuse of a pesticide that results in a) proven harm to human health, commodities, livestock or the environment and b) proven exposure of humans, commodities or livestock to the pesticide."

REP. STOVALL asked **Mr. Gingery** if the Story amendment would satisfy the Department.

REP. OHS disagreed because "now what we're saying is misuse of a pesticide on agricultural crops; if you expose them, you're in a major violation. Is that what we want to say?"

REP. OHS said a person who accidentally puts the wrong chemical on a crop would be "guilty of a major violation." He wondered if the way it was worded, the exposure to crops was appropriate.

REP. LARSON disagreed with **REP. OHS** and explained that the gray bill now reads that a major violation includes harm or exposure to humans, human health, agricultural commodities, livestock and the environment. He said that **REP. STORY'S** amendment clarifies that proven exposure has to apply to human health, whereas proven harm has to apply to humans, agricultural commodities and livestock.

Ms. Erickson disagreed with **REP. LARSON** and said the Story amendment would apply proven harm to humans, agricultural commodities, livestock and the environment and proven exposure of humans, agricultural commodities, livestock or the environment.

REP. STORY said he didn't include the environment in the exposure section of his amendment.

REP. GAY ANN MASOLO suggested that a subcommittee be formed to discuss this bill.

CHAIRMAN BARNETT said that he felt they were close to agreement on the wording and apologized to the Committee for having to read this bill. It should have been in better condition before it came to the Committee.

REP. STORY responded to **REP. OHS** and cited a section of the bill that said "a major violation includes noncompliance with the pesticide or container disposal labeling or handling requirements."

Motion/Vote: **CHAIRMAN BARNETT** MOVED THAT THE STORY AMENDMENT BE ADOPTED. The motion carried unanimously.

Motion: **REP. DON LARSON** MOVED THAT HB 212 DO PASS.

Discussion: REP. LARSON wanted to be sure that the intent of the bill hasn't been changed by the language, and if by dropping the word "environment" the intent has changed, he will move an amendment on the floor to restore it.

REP. OHS said the only place environment was left out was in the exposure part. He said that just by using the chemical, the environment is exposed, so it makes more sense to leave it out of the second part.

REP. LARSON agreed, but wanted to be sure the legislation, in terms of the definition of a major violation, is the same as what the department intended.

REP. STORY explained that he intentionally left out the word "environment" because it is a broad area and "when you get into sub (8) where it says if you're violating the labeling or use restrictions that are already on the chemical, you're in a major violation anyway, and that should be the environmental protection, I would hope."

Vote: The motion to pass HB 212 as amended carried unanimously.

HB 44

CHAIRMAN BARNETT asked if there were amendments to HB 44.

Ms. Erickson said there were and she would have them on Thursday.

CHAIRMAN BARNETT said they would put this bill on Thursday's agenda. He thanked the Committee for taking the time to work through the gray bill.

ADJOURNMENT

Adjournment: 4:50 p.m.



REP. JOE BARNETT, Chairman



PATTI BORNEMAN, Secretary

Note: This meeting was recorded on one 90-minute tape and one 60-minute tape.

The regular secretary for this Committee, Jaelene Racicot, was excused due to illness.

JB/pb

HOUSE OF REPRESENTATIVES

Agriculture

ROLL CALL

DATE 1/31/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Sam Rose Vice Chairman, Majority	✓		
Rep. Don Larson, Vice Chairman, Minority	✓		
Rep. Jon Ellingson			✓
Rep. Dick Green	✓		
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Rick Jore	✓		
Rep. Gay Ann Masolo	✓		
Rep. Judy Rice Murdock	✓		
Rep. Karl Ohs	✓		
Rep. Jay Stovall	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Robert Story	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Ken Wennemar	✓		
Rep. Joe Barnett, Chairman	✓		

Explanation of Amendments

This Act re-establishes the liability restrictions and the safety information and training requirements for county noxious weed districts.

The language being re-established is:

"(Temporary) Liability Restrictions. A district as defined in 7-22-2101, is liable for damages caused by its use of herbicides only for an act or omission that constitutes gross negligence. The provisions of 2-9-305 apply to board members, supervisors and employees of the district.

"(Temporary) Information on Herbicide Use. The district must provide information on protective clothing, health hazards and proper application techniques to mixers, loaders and applicators of herbicides and make information available for review by the public at the district office.

The liability issue relates to the situation that county weed districts in the past either could not purchase liability insurance or the premiums were so high that purchase of liability insurance was prohibitive. The language confines county weed districts to gross negligence.

The purpose for the herbicide and safety information is to help ensure that weed district personnel prevent misuse herbicides which minimizes their general liability. The committee should note that weed district personnel must also be licensed governmental applicators under the Montana Pesticide Act which requires licensing, training and education.

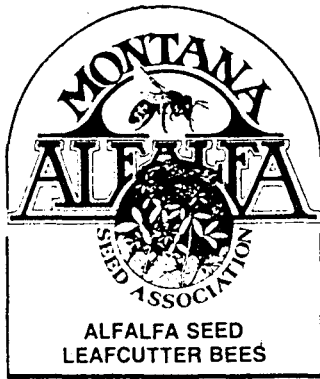


EXHIBIT Exhibit 2
DATE 1/31/95
SB 108

MONTANA ALFALFA SEED GROWERS ASSOCIATION

MAE REYNOLDS, *Secretary*
WINNETT, MONTANA 59087
Phone: (406) 429-7821

January 13, 1995

To: The House Agriculture, Livestock, and Irrigation
Committee

Dear Sirs:

I am writing on behalf of the alfalfa seed growers and alfalfa leafcutter bee keepers of Montana. We urge you to pass the changes in the Alfalfa Leafcutter Bee Law (Title 80, Chapter 6, Part II, MCA), introduced by Mr. Ric Holden in the Senate and Mrs Betty Lou Kasten in the House, that are before you this session. We regard these changes as a house cleaning and an update to keep up with changes in the industry. If you have any questions you can ask the Department of Agriculture Director, Leo Giacometto, or his assistant. We have worked closely with them.

We would like to add to the bill an effective date, upon approval and passage.

We appreciate your efforts, thank you.

Sincerely,

Gill M. Sorg
Chairman: The Governor's Alfalfa Leafcutter Bee Advisory
Committee
President: Montana Alfalfa Seed Growers Association

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Agriculture

COMMITTEE

DATE 1/31/95

BILL NO. SB 106

SPONSOR(S) _____

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Terrie VanBuren Rt. 1 Box 214 Joliet, MT	Visitor		
V. Keith Thomas Box 962 Forsyth MT 59327	Rocky Co. Wood Dist.	HB 278 ✓	
Don Holland HD 7	Representative HD 7	HB 278	
Bill Leary SB 106	MT. Bankers Assoc	SB 106 ✓	
John Sample SB 106	Assoc of MT Aerial Applicators	SB 106 ✓	
Bob Stephens	MT Grain Growers Assn	SB 106 126 ✓	
LARRY Brown	Ag. Pres. Assoc.	SB 106 X	
Pam Langley	Montana Ag Business Assn	✓	
Maureen Cleary-Schwinden	WIFE	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

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