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۱	SENATE BILL NO. 19
2	INTRODUCED BYGRAHAM
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO AGRICULTURE."
6	
7	BE IT ENACTED BY THE LPGISLATURE OF THE STATE OF MONTANA:
8	Section 1. Section 3-201, R.C.M. 1947, is amended to
9	read as follows:
10	"3-201. Definitions. <u>(1)</u> <del>#benever the</del> <u>The</u> word "grain"
11	ismentionedin-this-acty-it-shall-be-construed-to-include
12	<u>includes</u> flax.
13	(2) The term "public warehouse" includes any elevator,
14	will, warehouse, or structure in which grain is received
15	from the public for storage, milling, shipment, or handling.
16	[3] The term "public warehouseman" shall be held to
17	<pre>sear and include includes every person, association, firm,</pre>
18	and corporation owning, controlling, or operating any public
19	warehouse in which grain is stored or handled in such a
20	sammer that the grain of various owners is mixed together,
21	and the identity of the different lots or parcels is not
22	preserved.
23	<u>[4]</u> The term "grain dealer" <del>shall-be-held-to-mean-and</del>

<u>14)</u> The term "grain dealer" shall-be-held-to-mean--and
 <u>include</u> includes every person, firm, association, and
 corporation owning, controlling, or operating a truck,

tractor-trailer unit, or warehouse, other than a public
 warehouse, and engaged in the business of buying grain for
 shipment or milling.

4 (5) The term "track buyer" shall mean and include
5 includes every person, firm, association, and corporation
6 who which engages in the business of buying grain for
7 shipment or milling, and who which does not own, control, or
8 operate a warehouse or public warehouse.

9 (6) The terms "agenty", "brokery", and "commission 10 man" shall-mean and include every person, association, firm, 11 and corporation who which engages in the business of 12 negotiating sales or contracts for grain or of making sales 13 or purchases for a commission."

Section 2. Section 3-205, R.C.M. 1947, is amended to
read as follows:

16 "3-205. Inspectors of grain -- samplers and weighers --- gualifications --- interest. The department shall provide 17 18 inspectors, samplers, and weighers to enforce this act 19 chapter. At all inspection points designated by the 20 department, the department shall provide sufficient inspectors and weighers to inspect and weigh all grain 21 22 subject to state inspection, under the supervision of the 23 department. However, grain held in transit for inspection 24 and diversion only, need not be weighed. Inspectors shall be 25 able to qualify under the terms and in accordance with the

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-2-

United States Poderal Grain Standards Act. Inspectors,
 samplers, and weighers may not be interested directly or
 indirectly in the handling, sorting, shipping, purchasing,
 or selling of grain or grain products."

5 Section 3. Section 3-210, R.C.M. 1947, is amended to 6 read as follows:

7 "3-210. Rules governing dockage - sample inspection. R The department shall, after the hearing provided in section 9 3-209, adopt rules governing the dockage which shall be made 10 on inferior grades and in all executory contracts entered 11 into after the hearing. The rules may not conflict with the 12 terms of the United States Federal Grain Standard Act. Where 13 the price or amount to be paid depends on terminal weight or 14 grade, the rules shall control the dockage in so far insofar 15 as it affects the price to be paid, and the rules become 16 part of the contract of sale. The department shall also 17 provide for sample inspection of grain, adopt rules 18 governing sample inspections, and provide that the sample inspection when made is final." 19

Section 4. Section 3-220, R.C.H. 1947, is amended to
read as follows:

22 "3-220. Begulation of sale and storage of
 23 grain identity of grain in general storage <u>Designation of</u>
 24 grain delivered to warehouse. In cases of grain being sold
 25 outright to the warehouseman at the time of delivery or

grain placed in store with the warehouseman to be sold at a 1 future time to the warehouseman to whom delivered, 2 settlement shall be made on the basis of grade, quality, 3 protein content, and quantity. In cases of storage of grain n with intent of future redelivery of the orain, the owner 5 must so designate at time of delivery to enable the 6 warehouseman to special bin. **Pailure <u>Opon</u> failure** to so 7 designate at time of delivery, the grain will lose its 8 identity in general storage, Thorefore, whereupon the owner 9 asrees is obligated to accept quantity of like grade, kindy 10 11 and quality (as provided for under the United States Federal Grain Standards Act) from the warehouseman's general 12 13 storage."

14 Section 5. Section 3-224, R.C.N. 1947, is amended to 15 read as follows:

#3-224. Termination of storage contract --- sale of 16 grain for charges. Storage on any or all grain may be 17 terminated by the owner at any time before the date 18 mentioned herein by the payment or tender of all legal 19 charges and the surrender of the storage warehouse receipt, 20 together with a demand for delivery of such grain, or notice 21 to warehouseman to sell the same. In the absence of a 22 demand for delivery, order to sell, or mutual agreement for 27 the renewal of the storage contract entered into prior to 24 the expiration of the storage contract, as prescribed in 25

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this agt, the warehouseman shall, upon the expiration of the 1 storage contract, sell so much of such stored grain at the 2 local market price on the close of business on said that day 3 as is sufficient to pay the accrued storage charges, and £1 shall thereupon issue new storage tickets warehouse receipts 5 6 for the balance of the grain to the owner thereof upon surrender by him of the original storage warehouse receipts. 7 Provided, --further, -- that it -- shall-be-the-duty-of-the The 8 9 warehouseman on-the first day of June of each year to notice 10 shall notify all storago-ticket warehouse receipt holders at their last known address of the provisions of this ast 11 section by June 1 of each year." 12

13 Section 6. Section 3-225, R.C.M. 1947, is amended to
14 read as follows:

"3-225. Disposal of grain forbidden without notice to 15 16 department of agriculture and compliance with law 17 forbidden-delivery-of-grain-for-warehouse-receipts. No such 18 warehouseman shall may sell or otherwise discose of  $\tau$  or 19 deliver out of store, except to the owner, any stored grain, 20 except upon noticer in advancer to the department of agriculture, and after complying in full with the laws of 21 the state and the regulations of the department  $\Theta \in$ 22 23 agriculture relating to the handling of stored grain. Any 24 person, firm, association, or corporation owning or operating more than one public warehouse in this state shall 25

be permitted to make delivery of may deliver wheat grain 1 2 from one warehouse in settlement of warehouse receipts issued for grain stored in another warehouse, when grain for 3 ų, storage has been presented at any warehouse in excess of its 5 available storage capacity<del>, Previded,</del> <u>provided</u> that; 6 (1) this shall does not be-construed as conferring 7 confer upon such warehouseman a right to make delivery of 8 grain of substantially lower value than that delivered for 9 store, though of the same technical grade, in settlement of 10 warehouse receipts; and provided further, that 11 (2) such warehouseman shally at all times r keep on 12 hand in bonded warehouses grain of quality and quantity sufficient to settle all outstanding storage warehouse 13 receipts -: Provided, further, that and 14 15 (3) freight and other charges shall be figured on the basis of the point of receipt." 16 Section 7. Section 3-227, R.C.M. 1947, is amended to 17 18 read as follows: 19 "3-227. Annual report of warehouseman, track buyer, and grain dealer -- special reports -- penalty for failure 20 to report. On June 30 of each year, every each warehouseman, 21 track buyer, and grain dealer shall make a report, under 22 23 oath, to the department, on forms prepared by it. The report shall show the total weight of each kind of grain received 24

LC 0052/01

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and shipped by the warehouseman, track buyer, and or

1 licensed grain dealer, the amount of outstanding storage 2 warehouse receipts on that date, and a statement of the 3 ascount of grain on hand to cover thes. The department may 4 also require special reports from a warehousewan, grain dealer, or track buyer at any time. The department may 5 inspect the business of every warehouseman, track buyer, and 6 7 grain dealer and the method of conducting the business, 8 whenever considered proper. The books, accounts, records, papers, and proceedings of every warehouseman, track buyer, 9 and grain dealer are at all times during business hours 10 11 subject to inspection. A person who knowingly falsifies any 12 of its his reports to the department, who fails to make the reports when requested by the department, or who refuses or 13 14 resists inspection is quilty of a misdemeanor and shall be 15 fined of not less than three-hundred dollars-(\$300) nor or more than five-hundred-dollars-{\$500}." 16

17 Section 8. Section 3-710, R.C.M. 1947, is amended to18 read as follows:

19 "3-710. Rules to be adopted by department. The
20 department shall adopt rules it considers necessary for the
21 safe conduct of the business referred to in this act,
22 including a scale of storage charges and storage warehouse
23 receipts. The department may require reports, from any
24 warehouseman or person receiving stored beans, on forms
25 prepared by the department,"

Section 9. Section 3-712, B.C.M. 1947, is amended to
 read as follows:

"3-712. Storage constitutes bailment -- duty to keep 3 4 beans in storage. The storage of beans under this act 5 constitutes a bailgent, and upon the return of the warehouse 6 receipt properly endorsed, and upon the payment or tender of 7 all advances and legal charges, the holder of the warehouse 8 receipt is entitled to, and the warehouseman shall deliver, 9 the identical grade and amount of beans placed in storage. A 10 dealer, under this act, shall maintain at all times in 11 original storage beans equal in amount and grade to all storage certificates warehouse receipts issued, unless 12 13 authorized in writing by holders of receipts or by the 14 department, to move to other storage. Pailure to maintain 15 the proper amount of beans is a conversion."

16 Section 10. Section 3-802.2, R.C.M. 1947, is amended
17 to read as follows:

"3-802.2. Labeling of agricultural seeds. (1) The 18 19 owner, wendor, or person in possession of each and every any 20 package, parcel, or lot of agricultural seeds, as defined in 21 the -- first -- section - 3-802.1-3-of-this-act, that contains one 22 -(1) poundy or more, of agricultural seeds, whether in package or in bulk, shall, before offering the seeds for 23 24 sale, affix in a conspicuous place on the exterior of the 25 container a written or printed label in the English language

LC 0052/01

-7-

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1	in legible type or copy <del>and the label-shall-contain</del>
2	<u>containing</u> a statement specifying:
3	<del>(1)[a]</del> A a lot number or other distinguishing mark <del>r</del> :
4	<del>(2)<u>(b)</u> Kind kind</del> . The name of each kind of seed
5	present in excess of <del>five per-sent (</del> 5% <del>)</del> shall be shown on
6	the label and need not be accompanied by the word "kind".
7	When two or more kinds of seed are named on the label, the
8	name of each kind shall be accompanied by the percentage of
9	each. When only one kind of seed is present in excess of
10	five-per-cent-{5%} and no variety name or type designation
<b>1</b> 1	is shown, the percentage of that kind may be shown as "pure
12	seed" and such percentage shall apply to seed of the kind
13	named.
14	<u>(c) Variety, variety, as follows:</u>
15	<del>(a)<u>(i)</u> The</del> <u>the</u> following kinds of agricultural seeds
16	are constally laboled as to variate and shall be laboled to

16 are generally labeled as to variety and shall be labeled to 17 show the variety name or the words "Variety-Net-Stated 18 <u>variety\_not\_stated</u>":

19	Alfaifa <u>alfalfa</u>	<del>Uat</del> <u>oat</u>
20	<del>Barley</del> <u>barley</u>	Pea <u>pea</u> , field
21	<del>Bean</del> <u>bean</u> , field	<del>Ryo</del> <u>Eye</u>
22	<del>Beet</del> <u>beet</u> , field	Safflower safflower
23	Brone brone, smooth	Sorghue sorghue
24	<del>Clover</del> <u>clover</u> , crimson	<del>sorghum Sudan</del> <u>sorghym-sudan</u>
25		hyiris

1	<del>Clover</del> <u>clover</u> , red	<del>Seybean</del> <u>soybean</u>
2	Clover <u>clover</u> , white	Sudangrass <u>sudan grass</u>
3	Gorn corn, field	Sunflower sunflower
4	COFF COIL, pop Trefeil	<u>trefoil, Birdsfoot birdsfoot</u>
5	Pessue <u>fescue</u> , tall	Wheat wheat, common
6	<del>Plas</del> <u>flax</u>	<del>¥heat</del> <u>¥heat</u> , <del>Durua</del> <u>duru</u> ≞
7	Millet millet, foxtail	

(b) (ii) If if the name of the variety is given, the 8 name may be associated with the name of the kind with or 9 without the words "kind and wariety-". The percentage in 10 this case may be shown as "pure seed" and shall apply only 11 to seed of the variety named. If separate percentages for 12 the kind and the variety or hybrid are shown, the name of 13 14 the kind and the name of the variety or the term "hybrid" shall be clearly associated with the respective percentages. 15 When two or more varieties are present in excess of five per 16 cont -- (5%) and are named on the label, the name of each 17 18 variety shall be accompanied by the percentage of each-: (3) (d) If that the seed is hybrid, if any one kind or 19

kind and variety of seed present in excess of <u>rive-pet-seat</u> (5%) is "hybrid" seed, it shall be designated. "hybrid" on the label. The percentage that is hybrid shall be at least ninety-five-per-seat (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

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LC 0052/01

1 are present in excess of five-per-cent-(5%) and are named on the label, each that is hybrid shall be designated as hybrid 2 on the label. No one kind or variety of seed may be labeled 3 as hybrid if the pure seed contains less than 75% hybrid £ seed. Any one kind or kind and variety that has pure seed 5 6 which is less than minety five por cent (95%) but more than soventy-five-per-gent (75%) hybrid seed as a result of 7 incompletely controlled pollination in a cross shall be A 9 laceled to show:

10 <sup>ta</sup>(<u>i)</u> the percentage of pure seed that is hybrid
11 seed; or

12 (b)(ii) a statement such as "Contains from seventy-five
13 per cent (75%) to minety-five per cent (95%) hybrid seed.":
14 No one-kind or variety of seed shall be labeled as hybrid if
15 the pure seed contains loss than seventy-five per cent (75%)
16 hybrid seed.

17 (4)(e) Origin, state or foreign country of origin, if
18 known, of alfalfa, red clover, white clover, native range
19 grasses, and field corn other than hybrid. If the origin is
20 unknown, the fact shall be stated.

21 (5)(f) The the approximate percentage of germination 22 of agricultural seed, together with the date of test of 23 germination. In all cases where hard seeds remain at the end 24 of the germination test, the percentage of actual 25 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,".

5 (6) (g) The the approximate percentage by weight of
6 pure seed, meaning the freedom of agricultural seeds from
7 inert matter and from other seeds+;

8 (7) (h) The the approximate percentage by weight of
9 sand, dirt, broken seeds, sticks, chaff, and other inert
10 matter combined in agricultural seeds.

11 (8) (i) The the approximate total percentage by weight
 12 of weed seeds-:

13 (9)(j) The the approximate percentage by weight of
14 other crop seeds in agricultural seeds.

15 (10) (k) The the name and approximate number of each
16 kind or species of restricted norious weed seeds occurring
17 per pound of agricultural, wegetable, or flower seeds.

18 (11) The the full name and address of the seedsman,
19 importer, dealer or agent, or other person, or persons, or
20 firm, or corporation selling the agricultural seed.
21 (12)(n) In in the case of mixtures of agricultural

22 seeds which contain two (2) or more kinds of seed in excess
23 of five-per-gent (5%) by weight of each, when sold as
24 mixtures:

25 (a) (i) Name hane of mixture-:

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(b) (ii) The name and approximate percentage by weight
 of each kind of agricultural seed present in the mixture in
 excess of five-per-cont-(5%) by weight of the total
 mixture-i

5 (s) (iii) Approximate approximate percentage by weight
6 of broken seeds and other inert matter in the mixture of
7 agricultural seeds.

8 (d) <u>(iv)</u> hpproximate approximate percentage by weight of
 9 weed seeds as defined in the first-soction [-3-802,1]-of-this
 10 astri

11 (e) (v) Approximate approximate percentage by weight of 12 other crop seed in the mixture of agricultural seeds $\frac{1}{2}$ 

13 (f)(vi) The name and approximate number of each kind or
14 species of restricted notions weed seeds occurring per pound
15 of mixtures of agricultural seeds, subject, however, to
16 restrictions as specified in the fourth section [3-820] - of
17 this-act 3-802,4\*:

18 (vii) Approximate approximate percentage of 19 germination of each kind of agricultural seed present in the 20 mixture in excess of five per cent (5%) by weight, together 21 with the sonth and year the seed was tested. In all cases 22 where hard seeds remain at the end of the germination test, 23 the percentage of actual germination and the percentage of 24 hard seeds shall be stated separately, with the provision that any portion or all of the hard seed may be added to the 25

percentage of germination and stated as "total germination
 and hard seed.".

3 (h) (viii) Full full name and address of the vendor of
 4 the mixture.

5 (13)(2) When seed is exchanged or transferred from one 6 seed labeler to another, it shall be accompanied by a 7 shipping document which clearly shows the kind(s) of seed<sub>T</sub> 8 <u>and</u> quantity of each kind<sub>T</sub> and each <u>Bach</u> container in a lot 9 shall carry appropriate lot number designation<sub>T</sub> and <u>shall be</u> 10 accompanied by mechanical analysis for each lot so 11 involved."

12 Section 11. Section 3-802.4, B.C.H. 1947, is amended

13 to read as follows:

14 "3-802.4. Prohibitions. A person, firm, corporation,
15 copartnership partnership, or association may not sell or
16 transport for use in planting in this state any
17 agricultural, wegetable, or flower seed that:

18 (1) Contains contains prohibited notions weed seeds.

19 (2) Contains contains restricted noxious weed seeds in
 20 excess of the maximum numbers per pound as follows:

#### 21 Number allowed of seeds

22	Species		per pound
23	<del>Dedder</del> <u>dodder</u>	(Cuscuta spp.)	18
24	<del>Blue</del> <u>blue</u> lettuce	(Lactuca pulchella)	27
25	St. Johnswort	(Hypericum perforatum)	27

LC 0052/01

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1	<del>Gaeyo</del> <u>oreye</u> daisy	(Chrysanthesum leucanthemum) 90
2	Spotted spotted knapweed	(Centaurea maculosa) 18
з	<del>Boary</del> <u>hoary</u> alyssum	(Berteroa incana) 9
4	Wild wild oats	(Avena fatua) 45
5	<del>Buckhorn</del> <u>buckhorn</u> plantain	(Plantago lanceolata) 90
6	Chickweed chickweed	(Stellaria spp.) 9
7	<del>Curly</del> <u>curly</u> dock	(Rumer crispus) 45
8	(3) <del>Costains</del> <u>contai</u> n	in excess of two-per-sent-(2%)

9 OI more of weed seed;

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(4) Is is offered or erposed for sale more than mine 10 11 -{9} calendar months from the last day of the month in which 12 the germination test was completed. This mine--(9)-month 13 9-month limitation does not apply when seed is packaged in 14 15 after harvest. The container must be conspicuously labeled 16 in not less than eight (8)-point 8-point type to indicate 17 <u>that</u>:

18 (a) That the container is hermetically sealed;

19 (b) That the seed has been preconditioned as to
20 moisture content-:

(c) That the germination test is valid for a period
not to exceed eighteen---(16) months from the date of the
germination test for seeds offered for sale on a wholesale
basisy and for a period not to exceed thirty-sim-(36) months
for seeds offered for sale at retaily:

(d) That the germination of vegetable seed at the time
 of packaging was equal to or above standards prescribed in
 the Pederal Seed Act of August 1963 1939, 7 U.S.C. 1551
 through 1510, with subsequent revisions.

(5) Is is represented in any manner to be for lawn 5 6 seeding purposes, unless it contains at least fifty per-sent 7 -(50%) pure seed of perennial fine-textured species which 8 shall be specified by rules under this act. However, grass 9 mixtures which do not contain fifty-per cent-(50%) pure seed 10 of perennial fine-textured grasses may be sold. When these 11 grass mixtures are contained in packages of twonty-five (25) 12 pounds or less, they shall carry the statements: "Not 13 recommended for a fine-textured perennial turf. Satisfactory 14 for a temporary ground cover or where coarse grass is not 15 objectionable.". A definition of fine-textured varieties to 16 be adopted in the rules is as follows:

17 (a) Bluegrasses <u>bluegrasses</u>—all varieties ercept
18 Canada Bluegrass <u>bluegrass</u> (Poa compressa), Annual Bluegrass
19 <u>annual bluegrass</u> (Poa annua), and Rough Bluegrass rough
20 <u>bluegrass</u> (Poa trivialis) .
21 (b) Chewings Red Possee chewings red fescue and all
22 improved varieties.
23 (c) Greeping Bed Pescue creeping red fescue and all

24 improved varieties.

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25 (d) Bentgrass bentgrass-all varieties-;

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LC 0052/01

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 (e) Fine fine-textured Ryegrasses ryegrasses.

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 (f) The-labeling, advertising or other-representation

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 subject-to-this act represents the seed to be is labled,

 4
 advertised, or otherwise represented as being certified seed

 5
 of-any-dlass-thereof unless:

6 (a) it has been determined by a seed certifying agency 7 that such seed <del>conforms</del> to standards of purity and 8 identity as to kind, species (and subspecies, if 9 appropriate), or variety; and

(b) that 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) is labeled with a variety name for which a U.S. 14 certificate of plant variety protection has been issued or 15 applied for under the provisions of the Plant Variety 16 Protection Act (7 U.S.C. 2321 et, seq.), without the 17 18 authority of the owner of the variety+ or is labeled with a 19 variety mame but not certified by an official seed 20 certifying agency when it is a variety for which the 21 certificate or application for "protection" specifies sale 22 only as a class of certified seeds, provided, that seed from 23 a certified lot may be labeled as to variety name when used 24 in a mixture by  $\tau$  or with approval of  $\tau$  the owner of the 25 variety."

Section 12. Section 3-804, R.C.M. 1947, is amended to
 read as follows:

"3-804. Penalty. Any person, firm, or corporation who 3 sells, or offers or exposes for sale or distribution in the 4 state any agricultural seeds for seeding purposes- without 5 complying with the requirements of this ast, shall be deemed 6 7 3-802.1 through 3-808, is guilty of a misdemeanor, and upon в conviction shall be fined not less than one hundred-dollars 9 10 plus costs of such prosecution, and upon conviction of the 11 second or any subsequent offense shall be fined not less 12 than five-hundred-dollars-(\$500)----not or more than one 13 theusand dellars --- (\$1,000) --- and plus costs of such 14 prosecution."

15 Section 13. Section 3-805, R.C.M. 1947, is amended to
16 read as follows:

17 "3-805. Inspection by grain and seed laboratory --18 reports - enforcement. (1) The grain and seed laboratory of 19 the agricultural experiment station shall inspect. analyze. 20 and test seeds sold  $\gamma$  or offered  $\gamma$  or exposed for sale in this 21 state at a time and place and to an the extent as the 22 director of the agricultural experiment station and the 23 department of agriculture determine. The laboratory shall 24 report to the department all violations as they appear. It 25 shall also annually before September 1 make a report to the

-17-

-18-

1 department of all tests made and the results, which may be 2 published by the department. The laboratory and the 3 department shall have free access at all reasonable hours to 4 all premises or structures to make examination of any seeds 5 or any other premises of a warehouse, elevator, or railway 6 company. Upon tendering payment at the current value, the 7 department may take any sample of seeds.

(2) The department shall administer and enforce this 9 ast 3-802.1 through 3-808. For that purpose, the department 9 acy adopt rules. The department way issue and enforce a 10 written or printed "stop sale" order to the owner or 11 custodian of any lot of agricultural seed which the 12 department finds in violation of this-act 3-802.1 through 13 3-808. The order shall prohibit further sale of the seed 14 15 until the department has evidence that the law has been 16 complied with. The seed may not be confiscated or destroyed. Upon proper correction, by reprocessing, labeling, or 17 otherwise, and when, in the judgment of the department, the 18 19 requirements of this act 3-802.1 through 3-808 have been met, the stop sale order shall be lifted and the seed may be 20 sold. The department shall adopt all necessary rules 21 relating to the agricultural experiment station's duties 22 23 under this ast 3-802.1 through 3-808."

24 Section 14. Section 3-807, R.C.M. 1947, is amended to 25 read as follows:

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1 "3-807. Samples-may-be-sent-to-the laboratory-for 2 Laboratory testing of samples - rates. Any citizen of this 3 state may request the grain and seed laboratory to examine, ш analyze, and test samples of seed upon payment of the fee 5 and compliance with rules governing the submission of seed 6 samples for such service. Samples of seed analyzed and 7 tested shall be charged for at rates determined jointly by 8 the department and the director of the grain and seed 9 laboratory. All fees collected by the grain and seed 10 laboratory shall be used to defray the expenses incurred by 11 the laboratory under this-act 3-802.1 through 3-808."

Section 15. Section 3-1215, R.C.H. 1947, is amended to
read as follows:

14 "3-1215. Acts made unlawful --- penalty. It shall be is 15 unlawful for any person to falsely represent or to 16 misrepresent the name, age, variety, or class of any nursery 17 stock sold or offered for saler; or to falsely represent or 18 state that any nursery stock offered for sale, sold, or 19 delivered was grown in or came from a certain nursery or 20 locality, when in fact such nursery stock was grown in or 21 case from another location, or nursery; or to deceive or 22 defraud any person in the sale of any nursery stock by 23 substituting inferior or different varieties or ages from 24 those orderedy; or to willfully or intentionally bring into 25 this state, or to offer for sale or distribution within this

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state, or to ship, sell, or deliver upon any sale any 1 nursery stock that is infected or infested with any disease 2 or insect dangerous to the horticultural interests of the 3 stater, and in case of such misrepresentation, false 4 representation, deceit, fraud, or substitution, shall-be 5 such person is subject to punishment as provided by the 6 statute for misdemeaner, 3-1218 and shall be is liable to 7 the person, firm, or corporation damaged or injured thereby, 8 the arount to the extent of all damages sustained, to be 9 recovered in a civil action in any court of competent 10 jurisdiction." 11

Section 16. Section 3-1405, R.C.H. 1947, is amended to
read as follows:

14 "3-1405. Unlawful to sell or transport products unless labeled, tagged, or branded --- use of tags. (a) (1) It shall 15 be is unlawful for any person, firm, association, 16 17 organization, or corporation, or agent, representative, or assistant to any person, firm, association, organization, or 18 19 corporation, to expose for sale, or sell, transport, 20 deliver, or have in possession Montana farm products and other farm products prepared for market unless 21 each container has been legibly and conspicuously tagged, 22 23 branded, labeled, or stenciled before being moved from the 24 premises of the person <del>or persons</del> responsible for the grading and packing, to indicate the name of the grade, when 25

applicable\_ together with the true net contents expressed in
 weight.

3 (2) When tags are used, United States No. 1 grade shall be declared on a white tag, and United States No. 2 4 5 grade shall be declared on a red tag. Bulk shipments shall 6 be accompanied by two (2) cards not less than four by six 7 4\_x\_6 inches (4967) in size, placed on the inside of the car 8 near each door. Likewise cards in size herein described 9 shall be prominently placed on all bulk shipments made by 10 truck or other conveyance. Upon each card shall appear the 11 name and address of the consignor, the name of the grade, if 12 applicable, the name of the loading station, the date of 13 loading, and the name and address of the consignee, if 14 known. It shall be conclusive evidence that the farm products are decemed considered for sale when the containers 15 are packed for delivery or transit, or when same are exposed 16 17 for sale, or when same are in process of delivery or transit, or are located at a depot, station, boat dock, or 18 19 any place where farm products, or other products are held 20 for storage, or for issediate or future sale or transit."

21 Section 17. Section 3-1406, R.C.M. 1947, is amended to 22 read as follows:

3 "3-1406. Inspection of condition of products in
storage or transit. Montana farm products and other farm
products held in storage or in transit which at the time of

LC 0052/01

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inspection show deterioration or decay, but otherwise <del>up</del> <u>conform</u> to the grade, shall be inspected as to condition and not as to grade."

Section 18. Section 3-1714.3, R.C.M. 1947, is amended
to read as follows:

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3-1714.3. Guaranteed analysis. (1) Until the
department prescribes the alternative form under subsection
(2) of this section, "guaranteed analysis" means the minimum
percentage of plant nutrients claimed in the following order
aud form:

11 (a) The following plant nutrients shall be guaranteed: Total mitrogen (N) ----- percent \$ 12 Available phosphoric acid (P205) ----- percent % 13 14 Soluble potash (K2O) ------ percent % 15 (b) For unacidulated mineral phosphatic materials and basic slag, bone meal, tankage, and other organic phosphatic 16 17 saterials, the total phosphoric acid and degree of 18 fineness may also be quaranteed.

(c) Guarantees for plant nutrients other than
nitrogen, phosphorus, and potassium may be permitted or
required by rules adopted by the department. The guarantees
for other nutrients shall be expressed in the form of the
element. The sources of other nutrients including, but not
limited to, oxides, salt, and chelates, may be required to
be stated on the application for registration and may be

included as a parenthetical statement on the label. Other 1 beneficial substances or compounds, determinable by 2 laboratory methods, also may be quaranteed by permission of 3 the department, #hen-any-plant-nutrients-or-other-substances 4 5 and analysis-in-accord-with-the--methods--and--regulations 6 7 preseribed by costion 3-1718. (d) Potential basicity or acidity expressed in terms 8 9 of calcium carbonate equivalent in multiples of one--hundred (100) pounds per tony shall be guaranteed when required by 10 regulation. 11 12 (2) If the department finds, after public hearing, that the requirement for expressing the guaranteed analysis 13 of phosphorus and potassium in elemental form would not 14 impose an economic hardship on distributors and users of 15 fertilizer by reason of conflicting labeling requirements 16 17 among the states, it may require by department rule that the 18 guaranteed analysis be in the following form: Total nitrogen (N) ----- persent 1 19 Available phosphorus (P) ------ percent % 20 Soluble potassium (K) ----- percent % 21 (3) The effective date of the rule may not be less 22 than sim (6) months following the adoption of the rule. For 23 a period of two-(2) years following the effective date of 24

25 the rule, the equivalent of phosphorus and potassium may

-23-

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also be shown in the form of phosphoric acid and potash.
 Rowever, after the effective date of a rule requiring that
 phosphorus and potassium be shown in the elemental form, the
 quaranteed analysis for nitrogen, phosphorus, and potassium
 is the grade for those elements.

6 (4) Soil amendments shall guarantee the minimum 7 quantity of each active ingredient in terms approved by the 8 department or in terms as set forth in rules issued by the 9 department. They shall also meet any other requirements 10 established by rule by the department."

Section 19. Section 3-1729, R.C.H. 1947, is amended to
 read as follows:

"3-1729. Assessment to fund educational and 13 14 experimental programs -- collection. Moneys to fund this act will be produced by an assessment of thirty-five 35 cents 15 (\$9.35) per top of fertilizer sold within Montana. 16 17 Collections shall be made in accordance with procedures in 18 neghions 3-1717 and 3-1721, B.C.B. 1947, 3-1717.1 and shall be collected from the <u>licensee or</u> "registrant" of 19 20 fertilizer."

21 Section 20. Section 3-1901, R.C.H. 1947, is amended to 22 read as follows:

23 =3-1901. Standard classes of mustard seed --- grade
24 requirements. <u>(1)</u> The standard classes of mustard seed for
25 the state of Bontana shall be as follows:

1	<u>(a) Fancy fancy-Cultivated cultivated</u> tame yellow
2	pustard seed <del>v</del> ;
3	<u>(b) Class class 1- Caltivated cultivated</u> tame yellow
4	mustard seed-
5	<u>(c) Class class</u> 2-Cultivated <u>cultivated</u> tame brown
6	mustard seed <del>.</del>
7	(d) Glass 3Cultivated cultivated tame Hontama
8	oriental mustard seed <del>v</del> ;
9	(e) Glass <u>class</u> 4— <u>Sized mixed</u> cultivated tame mustard
10	seed <del>, and</del>
11	Sample Hereinafter defined.
12	(2) Classes 1, 2, and 3 shall contain not more than
13	five per cont (5%) of other classes. Class 4 shall be any
14	mixture of cultivated tame mustard seed having an admixture
15	of other classes in excess of five-per seat $(5x)_{7}$ and shall
16	be graded according to the predominating class in the
17	zixture. <del>Sapple grade shall-include-pustard good which-doos</del>
18	not-conc-within-the-requirements-ofanyofthefollowing
19	<del>gradopNo1toNo3inclusivo,orvhis</del> h <del>has</del> <del>aay</del>
20	<del>objectionable for</del> eign-od <del>er or it soury-heatingy-hotyer-is</del>
21	<del>otherwiseofdistingtlylowqualityorgentainsgnall</del>
22	ibsoperable stones or sinders.
23	<u>(3)</u> Grade requirements for cultivated tame mustard
24	seed-
25	Based Percentage figures determined

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-26-

-25-

## LC 0052/01

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	Fancy		1	2
	rancy		·	
Sound Cultivated Mustard				
not less than	99 <b>%</b>	98	1/2%	97%
Damaged Kernels				
Peat Damaged	O	1	0.1%	0.2%
Total	1%	1	1/25	3 %
Other Classes				
Wild Mustard	٥		0.1%	0.2%
Total	0	(	0.5%	2.0%
Foreign Material Other				
Than Dockage				
Cockle Seed	0	I	0.1%	0.2%
fotal Need Seed Content	<b>+</b> 0	1	0.3%	0.5%
Total	0		1 %	1 1/2
Sample: Sample grade shall	include au	star	d see	d whic

1	objectionable foreign odor or is sour, heating, hot, or
2	is otherwise of distinctly low quality or contains
3	small inseparable stones or cinders."
4	Section 21. Section 3-1902, B.C.S. 1947, is amended to
5	read as follows:
6	"3-1902. Definitions and specifications. The following
7	definitions and specifications are hereby adopted and made
8	legal:
9	(1) <del>Damaged Scods</del> "Damaged seeds <u>" <del>shall bo</del> <u>include</u></u>
10	all seeds and pieces of seeds of mustard seed, which are
11	completely covered with mould, very green, sprouted,
12	frosted, badly ground damaged, badly weather damaged, or
13	otherwise distinctly damaged.
14	(2) <del>Heat Damaged Goods</del> "Heat damaged seeds <u>" shall- be</u>
15	include seeds and pieces of seeds of mustard seed which have
16	been distinctly discolored by external heat or as a result
17	of heating caused by fermentation.
18	(3) Dockage"Dockage" includes sand, dirt, weed
19	seeds, weed stems, chaff, straw, mustard seed other than
20	tame mustard, and any other foreign material, which can be
21	removed readily from the mustard by the use of appropriate
22	sieves, cleaning devices, or other practical means suited to
23	separate the foreign material present <sub>71</sub> also <u>The term also</u>
24	includes undeveloped, shriveled, and small pieces of mustard
25	seeds removed in properly separating the foreign material,
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-28-

-27-

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which cannot be recovered by properly rescreening or 1 2 recleaning. The quantity of dockage shall be calculated in 3 terms of percentage. When less than one-half-per-cent-(1/2%) 4 1/2\_of\_1% it shall be disregarded. The percentage of dockage 5 so determined and stated, shall be added to the grade 6 designation. Dockage is to be calculated by the one half we 7 cont--(1/2%), in gradients of 1/2 of 1% that is to say 0% to 8 0.4% .4% will be designated as no dockage, 0.5% .5% to 0.9% 9 .9% will be designated as 4/2% 1/2 of 1% dockage, 1% to 1.4% 10 will be designated as 1% dockage, 1.5% to 1.9% will be designated as 1-4/2% 1.5% dockage, and so on. 11

12 (4) Poreign-Saterial-Other-Than --Deckage-- "Poreign 13 material other than dockage" shall-include includes all 14 matter other than take cultivated mustard seed, which is not 15 separated in the proper determination of dockage, however 16 However, rapeseed, common wild mustards, and other seeds 17 that blend with class 2 and class 3 mustard seed, and thus 18 are not readily identified, and the total of which is not in 19 excess of two-and-one-half-per cont (2-1/2%), 2.5% shall not 20 be considered foreign material  $\rightarrow$  and shall not be considered 21 in grading said such classes of mustard seed.

22 <u>(5)</u> Basis-of-Determination: Each determination of 23 dockage, temperature, odor, and <u>content of</u> live weevil or 24 other insects injurious to stored mustard seed, shall be 25 upon the basis of the seed as a whole. All other determinations shall be upon the basis of the seed when free
 from dockage.

3 (5) (6) Persentages—Percentages, except in the case of
 a moisture, shall be percentages ascertained by weight.

5 <u>(6)(7)</u> Percentages of Neisture Percentage of moisture 6 shall be that ascertained by use of the equipment and 7 procedure prescribed by the Montana department of 8 agriculture.

9 (7) (8) Personage of Bookage Percentage of dockage
10 shall be that ascertained by use of the equipment and
11 procedure prescribed by the Bostana department of
12 agriculture.

13 (8) [9] Test Seight Per Buchel The test weight per 14 bushel shall be the weight per Winchester bushel as 15 determined by the testing apparatus and the method of use 16 thereof described in Bulletin 1065 U.S.D.A. dated Hay 18, 17 1922, prescribed by the department or as determined by any 18 device and method which give equivalent results in the 19 determination of test weight per bushel.

20 (9)(10) All Other Determinations. The Determination of 21 the percentage of damage, heat damage, sound cultivated 22 mustard seed, foreign material, and determinations of all 23 other factors not otherwise provided for shall be on the 24 basis of a portion cut from the original sample and 25 separated by hand picking."

-29-

-30-

Section 22. Section 3-1903, R.C.M. 1947, is amended to read as follows:

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3 #3-1903. Weights per bushel. (1) The-following-shall ш be-legal Legal test weights per bushel, -addely, The are the 5 weight per Winchester bushel as determined by the testing 6 apparatus and the method of use thereof described-in 7 Bullotin-1065-0.5.D.l. dated May 18, 1922, prescribed by the 8 department or as determined by any device and method which 9 give equivalent results in the determination of test weight 10 per cushel.

11 (2) Weight per bushel for tame yellow mustard seed
12 shall be:

13	<b>Pancy</b> 56 lbs.
14	Wo. 1
15	No. 2
16	No. 350 lbs.
17	(3) Weight per bushel for take brown and take Montana
18	oriental mustard seed shall be:
19	No. 1
20	No. 2
21	No. 3
22	(4) All seeds weighing less than the above per bushel
23	shall be graded as sample weight, provided that the
24	percentage of damage, heat damage, sound cultivated mustard
25	seed, and foreign material and determination of all other

factors not otherwise provided for shall be on the basis of
 a portion cut from the original sample and separated by hand
 picking."

4 Section 23. Section 3-3112, R.C.K. 1947, is amended to
5 read as follows:

"3-3112. Orders effective until reversed or modified 6 7 by court. Until-reversed-or modified by d-sourt-of compotent 8 inrisdiction an An order or rule adopted by the department, including an order refusing a permit for the establishment 9 of a new apiary location, is effective until reversed or 10 11 modified by a final decision, or final-judgment, of a court of competent jurisdiction, and while such action is pending, 12 as defined in soction 93-8706. In injunction or other 13 process or writ may not be issued by a court restraining 14 enforcement until that final determination." 15

section 24. Section 3-3303, R.C.M. 1947, is amended to
read as follows:

18 "3-3303. Application for license -- contents -- bond
19 -- expiration date -- schedule of commissions and charges to
20 be filed. (1) Licenses to engage in the business of a dealer
21 at wholesale in this state shall be issued by the department
22 to reputable persons who apply for a license and pay the
23 prescribed fee.

24 (2) The application shall be in writing, accompanied25 by the prescribed fee, and under oath. It shall state:

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1 (a) the place where the applicant intends to carry on the business for which the license is desired; 2 з (b) the estimated amount of business to be done 11 monthly: (c) the full mames of the persons constituting the 5 6 firm, if the applicant is a separtnership partnership: 7 (d) the mames of the officers of the corporation, and 8 the place of incorporation, corporation if the applicant is Q a corporation; and (e) a financial statement showing in a general way the 10 11 value and character in-a-general-way of the assets and the 12 amount of liabilities of the applicant. 13 (3) Before issuing a license, the department shall 14 require the applicant to file with it a bond to this the 15 state in an amount to be fixed by the department based on 16 the monthly business to be transacted by the applicant. The bond shall may not be for less than one-theusand dollars 17 -{\$1,000}. The department may require, under repair of 18 revoking the license, additional bond if the business 19 transacted warrants an increase, -under-penalty--of--reveking 20 the ligence. The bond shall cover all wholesale produce 21 business transacted in this state. The bond shall be 22 23 executed by the applicant as principal and a surety company 24 acthorized to do business in this the state as surety. The 25 form of the bond shall be fixed by the department,

conditioned upon: 1 2 (a) faithful performance of his duties as a dealer at 3 wholesale: (b) observance of all laws relating to the business of h 5 a dealer at wholesale: 6 (c) payment, when due, of the purchase price of 7 produce purchased by him: R (d) for the prompt reporting of sales as required by 9 law to all persons consigning produce to the dealer as 10 licensee for sale on commission: and 11 (e) the prompt payment to persons entitled to the 12 proceeds of the sales lawful charges, disbursements, 13 and commissions. The bond shall cover all wholesale -- produce 14 business transacted in this state. 15 (4) All licenses expire December 31 of each year. The 16 license, or a certified copy of the license, shall be kept 17 posted in the office of the licensee at each place in this 18 state where he transacts business. The fee for each license 19 is one-hundred-dollars-{\$100} and for each certified copy of 20 a license, one-dollar---(\$1). If a truck is the place of 21 business the license fee for the first truck is one-hundred 22 dellars -- (\$100) and for each additional truck fifty-dellars

23 -{\$50}-.

24 (5) The applicant shall file with the department a25 schedule of his commissions and charges for services in

-33-

-34-

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connection with produce handling on account of or as agentfor another.

3 (6) A separate license is required for each place of
4 business. Each truck used for assembling and distributing
5 produce, other than from a permanently established place of
6 business through which all business of sales and accounts is
7 handled, is a separate place of business and must be
8 licensed."

9 Section 25. Section 3-3312, R.C.H. 1947, is amended to
10 read as follows:

11 "3-3312. Violation a-misdemeaner -- penalty. A person 12 who violates this ast chapter, fails to comply with rules 13 adopted under this chapter, or fails to obey an order of the department made under this chapter is quilty of a 14 15 misdemeanor and shall be fined not less than twenty five dollars (\$25) nor or more than five hundred dollars (\$500), 16 er imprisoned in the county jail for not more than sim---46} 17 18 months, or both fined and imprisoned. The fine shall be paid 19 into the state treasury and deposited as provided in soction 20 3-3411 3-3311."

Section 26. Section 3-3402, R.C.M. 1947, is amended to
read as follows:

23 "3--3402. Grades of apples. <u>[1]</u> The standard grades of
 24 apples for the state of montana shall be: "Fatra-fancy-or
 25 <u>first-grader</u>". "Pancy-or-second-grader". "Combination

#### 1 gradoy"-and "Hail-gradoy" and "Orohard-run gradoy"

(a) "Brear extra fancy or first grade,", which shall
consist of apples of one variety which are mature,
hand-picked, clean, well formed, sound, free from bruises,
limbrubs, spray burns, sunburn, russeting, drought spot,
hail marks, visible vater core, broken skin, apple scab,
stings, and from diseases and insect injury, except that
slight blemishes shall be permitted in this grade.

9 (b) "Fanoy fancy or second grade", which shall consist
10 of apples of one variety which are mature, hand-picked,
11 clean, fairly well formed, sound, free from visible vater
12 core, broken skin, and from damage caused by bruises,
13 limbrub, spray burns, sunburn, russeting, drought spot, hail
14 marks, apple scabs, diseases and insect injury-;

15 (c) "CE grade", which shall consist of apples of one 16 variety which are sature, hand-picked, clean, not badly 17 misshapen, sound, free from broken skin and from serious 18 damage caused by bruises, limbrub, russeting, drought spot, 19 bail marks, apple scab, diseases, and insect injury, and 20 must have fifteen per-contum-(15%) of color requirements 21 characteristic of the variety. The word "choice" must not be 22 used in connection with this grader:

23 (d) Gull apples "cull grade", which shall consist of
24 apples free from infection or disease or serious damage but
25 which do not meet the requirements of "extra fancy or first

-36-

LC 0052/01

grade", "fancy or second grade", or of "C" grade", and Such 1 apples shall be marked "culls" in block letters not less 2 than one 1 inch in height on both ends of the box; "culls". 3 (e) "Gombination combination grader", When "extra n. 5 fancy or first grade" and "fancy or second grade" apples are packed together, the boxes must be marked "combination extra 6 fancy or first grade and fancy or second grade.". This 7 combination grade must contain at least twenty-five-per я sentum (25%) of apples which belong to the higher grade in 9 10 the combination.

(f) "Hail hail grade", which shall meet all 11 requirements of "Extra extra fancy-" and "Fancy fancy grade" 12 except for hail warks. Such hail warks must not waterially 13 deform or disfigure the fruit or affect more than one-tenth 14 (1/10) of the surface in the aggregate where skin has not 15 been broken. Provided, that unhealed Unhealed hail marks 16 shall not be permitted and not more than an aggregate area 17 of one half (1/2) inch shall be allowed for well-healed hail 18 19 marks where the skin has been broken.

(g) "Orohard orchard-run grade", which shall consist
of apples of one variety, which are mature, hand-picked,
clean, sound, free from infection or disease or serious
damage, and must have fifteen per contum (15%) color
requirements characteristic of the variety and shall be
marked "orchard-run grade" in block letters not less than

one <u>1</u> inch in height on both ends of <u>the</u> box "Orchard run
 grade."

3 (b)(2) No apples smaller than two-and-one-fourth 4 (2 1/4) inches in diameter shall be permitted in any grade. 5 Small apples which are under size requirements as prescribed 6 may be shipped if marked "small" in block letters not less 7 than one 1 inch in height on both ends of the box, provided 8 such apples are free from insect pests and diseases.

9 (i) (3) In order to provide for variations incident to
 10 commercial grading and handling a tolerance of tempor
 11 center (10%) for a total of all defects from the standard of
 12 the grade shall be allowed."

Section 27. Section 3-3501, B.C.M. 1947, is amended to
read as follows:

15 "3-3501. Definitions. As used in this chapter <u>the</u>

16 <u>following definitions apply</u>:

17 (1) "Cropland" means land used for the production of
18 food and forage, including the headlands, ditches, and
19 rights-of-way adjacent to such land.

20 (2) "Cropland spraying program" means the application
21 of chemical or other substances to croplands for the purpose
22 of destroying insect pests.

- 23 (3) "Insect pest" includes the grasshopper, cutworm,
- 24 pale western cutworm, army worm, clinch bug, and any other
- 25 insect or arthropod generally recognized as a destroyer of

LC 0052/01

-38-

#### LC 0052/01

#### 1 grain, hay, range, and horticultural crops.

2 (3) (4) "Condition of insect pest infestation" means a 3 condition where an insect pest, as defined in section 4 16-1153, or combination of such pests, exists in cropland in 5 such numbers and at such times as to destroy or 6 substantially damage, or threaten to destroy or 7 substantially damage, a significant part of the crop 8 production in a county.

9 (4) (5) "Department" means the department of
 10 agriculture.

11 (5)(6) "Alternative control program" means a system of
 12 controlling insect pest populations through biological or
 13 other means not involving toxic chemicals."

14 Section 28. Section 27-220, R.C.H. 1947, is amended to
15 read as follows:

16 #27-220. Embargo. (1) Whenever a duly authorized agent 17 of the department of agriculture finds or has probable cause 18 to believe that any pesticide or device+ fal--Is is 19 adulterated or misbranded; (b) -- Has has not been registered 20 under the provisions of section 5 [27-217] of this acts. 21 (e)- Fails fails to bear on its label the information 22 required by this act , or (d) - Is is a white powder 23 pesticide and is not colored as required under this act+, he 24 shall affix to such article a tag or other appropriate 25 marking, giving notice that ough pestigide or device is, or

1 is--suspected--of--boing--adultorated--of--bisbranded,----not 2 registered, -- fails--to-- bear-the-required-information-on-the з label, is a white powder pesticide and not colored as ш required, and thereof and that the article has been detained 5 or embargoed and warning all persons not to remove or 6 dispose of such article by sale or otherwise until 7 permission for removal or disposal is given by such agent or 8 the court. It shall be is unlawful for any person to remove 9 or dispose of such detained or embargoed article by sale or 10 otherwise, without such permission, or to remove or alter 11 the tag or marking.

12 (2) When an article detained or embargoed under 13 Bootica 8 subsection (1) [sublivision (1) of -- this -- section] 14 has been found by such agent to be in violation, if after 15 thirty (30) days the violation has not been resolved, he may 16 petition the district court in whose jurisdiction the article is detained or embargoed for a condemnation of such 17 18 article. When such agent has found that an article so 19 detained or embargoed is not adulterated or misbranded, he 20 shall remove the tag or other marking.

21 (3) If the court finds that a detained or embargoed
22 article is in violation of section-8 subsection (1)
23 [subdivision (1) of this section], such article shall after
24 entry of the decree be destroyed at the expense of the
25 claimant thereof, under the supervision of such agent, and

LC 0052/01

-40-

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all court costs and fees and storage and other proper 1 expenses shall be assessed against the claimant of such 2 pesticide or device or his agent, provided that when the 3 adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after 5 entry of the decree and after such costs, fees, and expenses ĸ have been paid and a good and sufficient bond has been 7 executed, conditioned upon the proper labeling or processing я of that such pesticide or device, shall be so-labeled or 9 processed, has been executed, say by order direct that such 10 article be delivered to the claimant thereof for such 11 labeling or processing under the supervision of an agent of 12 the department of agriculture. The expense of such 13 supervision shall be paid by claimant. The article shall be 14 returned to the claimant of the pesticide or device on the 15 representation to the court by the department of agriculture 16 17 that the article is no longer in violation of this act, and 18 that the expenses of such supervision have been paid."

19 Section 29. Section 27-232, R.C.M. 1947, is amended to20 read as follows:

21 "27-232. Liability. The department of agriculture
22 shall within two (2) years after the offective date of this
23 act, annually require from each commercial pesticide
24 applicator proof of financial responsibility in amounts to
25 be determined under such rules and regulations accommade

1 promulgated by the department of agriculture."

2 Section 30. Section 27-237, R.C.H. 1947, is amended to
3 read as follows:

4 #27-237. Judicial review. (1) Any person adversely 5 affected by the rules, requisions, or orders of the 6 department of agriculture may obtain judicial review thereof 7 by filing in the district court within thirty-(30) days я after entry of such rule or order, a petition praying that 9 10 part. A copy of the petition shall be forthwith impediately 11 transmitted by the clerk of the court to the department of agriculture, and thereupon the department of agriculture 12 13 shall file in court the record of the proceeding on which it 14 based the order.

15 (2) The court shall have jurisdiction on to affirm or 16 set aside the order complained of in whole or in part. The 17 finding of the department of agriculture with respect to 18 questions of fact shall be sustained if supported 19 by substantial evidence when considered on the record as a 20 whole.

21 (3) Open application, the court may remand the matter
22 to the department of agriculture to take further testimony
23 if there are reasonable grounds for the failure to produce
24 the evidence in the prior hearing. The department of
25 agriculture may modify its finding and its order by reason

LC 0052/01

of the additional record and must file any modification of
 the findings or order with the clerk of the court."

3 Section 31. Section 82-1502, R.C.M. 1947, is amended
4 to read as follows:

#82-1502. Haximum insurance. When the reserve fund is 5 determined actuarilly sound, as provided in section 82-1507. б the board may write not more than twenty-four-dollars-(\$24) 7 insurance on each acre of grain, which is on nonirrigated ß 9 land, and not more than forty-oight dollars-(\$48) per acre on irrigated land. When more than one party desires hail 10 insurance on the same crop, each party shall be is entitled 11 12 to the share of the maximum provided per acre as represented 13 by his interest in the crop. Either party may insure his share in the crop for any amount up to and including the 14 maximum per acre if the others waive their right to insure." 15 Section 32. Section 82-1506, B.C.M. 1947, is amended 16 to read as follows: 17

"82-1506. Tax for hail insurance -- limitation on levy 18 --- liens, effect of --- mortgages -- levies, when payable ---19 hail insurance districts -- rates. (1) A tax is hereby 20 authorized and directed to be levied on all lands in this 21 state growing crops subject to injury or destruction by 22 hail, the owners of which have elected to become subject to 23 the provisions of this act. The state board of hail 24 insurance shall annually estimate, accurately as near-as-may 25

1 be possible, the amount required to pay all losses, interest 2 on warrants, and costs of administration- and shall recommend a levy to be made on each kind of land 3 ш respectively, subject to the provisions of this act, to the state department of revenue. The rates recompended to apply 5 on the lands of owners shall be applied in the same 6 7 proportions to the crops of those insured on a personal 8 assessment basis. It is hereby provided, however, that such 9 tax shall may not exceed in any one (1) year the sum of -- two 10 dellars and forty cents (\$2.40) per acre on lands sown to 11 grain crops on nonirrigated lands, and the sum of four 12 dellars and eighty seats (\$4.80) per acre on irrigated 13 lands, also-it shall-not-orgeod or two-dollars--and--forty 14 cents (\$2.40) per acre on lands producing hay crcps: and 15 provided further, that if If the tax required to pay the 16 estimated losses, interest on warrants, and costs of administration bo is less than one-dollar-and-twenty-cents 17 18 -{\$1.20}- per acre on lands sown to grain crops on 19 nonirrigated lands and two dollars and forty conts (\$2.40) 20 per acre on irrigated lands, and a proportionate amount on lands sown to hay crops, the said board of hail insurance 21 22 must recommend a tax levy sufficient to raise the full 23 amount thereof.

24 (2) In addition to the lien created above in
25 <u>subsection (3)</u> on the land of the insured, the levy for such

-43-

-44-

1 hail insurance shall also constitute a lien on the crops 2 insured with the exception that the said crop lien shall may not apply to owners of unencumbered land, or on to the land 3 or crops of those who pay cash for hail insurance. The 4 5 applications of these shall persons may not be filed with the county clerk and recorded as provided for in section 6 7 82-1503. The crop lien mentioned above shall be included in all applications for hail insurance, with the above 8 exceptions, and shall be enforced, as provided in sections 9 10 82-1509 and 82-1510- against all insured, except those owning unencumbered land or those who have paid cash for 11 12 hail insurance.

13 (3) The state department of revenue is---capewored and it is sade its duty to shall prescribe such 14 1.5 levies annually to be made against lands growing crops 16 subject to injury or destruction by hail which are subject 17 to this act, in accordance with the recommendation of the 18 state board of hail insurance. Such tax levies respectively 19 shall be are chargeable to the lands of each taxpayer who 20 shall-elest elects to become subject to this act and shall be extended on the tax roll and collected by the officers 21 22 charged with such duties in the manner and form as are other 23 property taxes and if not paid shall be a lien on the lands 24 against which the same are levied as are other property 25 taxes. Provided, however, that the The lies as provided

1 abeve-shall may in no way affect mortgages that are of 2 record at the time of the approval of this act. The lien of з any mortgage filed subsequent to the passage and approval of а this act shall be subsequent to any lien for hall insurance 5 hereafter levied thereon. All applicants securing hail insurance on crop liens as heretofore provided shall be 6 7 subject to the same charges per acre as provided herein to 8 be made on land. Notice of such assessment shall be mailed 9 to each person insured, by the county treasurer in the same manner as are all other notices of taxes due. Said The 10 11 assessment shall be payable at the office of the county 12 treasurers treasurer of each respective county. All insurance levies, whether levied against land or in the form 13 14 of special assessments secured by crop liens, shall be payable in full, and not in semiannual payments, on or 15 before November 30th 30 of each year in which such levies 16 17 are made.

18 (4) The state board of hail insurance may, when they 19 deem it considers it advisable, establish as many districts 20 as it deees considers advisable and may maintain maximum 21 rates in various parts of the state which rates shall be commensurate with the risk incurred as nearly as they it can 22 23 determine from past experiences or from any records available. The highest of these rates shall be the same as 24 the maximum established herein and the lowest shall may not 25

LC 0052/01

be less than <del>one dellar and twenty cents (</del>\$1.20) per acre on lands sown to grain Crops, and a propertionate amount on lands sown to hay crops.

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4 (5) Notice of the various rates established for any 5 year shall be plainly printed on the application for hail 6 insurance, and in any year when the requirements of the hail 7 insurance law as herein provided do not require a levy of 8 the maximum rates as established, then the rates for the 9 year shall be determined and levied by the state board of 10 hail insurance for each of the various districts as 11 established, in such proportions as will in their its 12 judgment be fair and equitable.\*

13 Section 33. Section 82-1517, R.C.H. 1947, is amended
14 to read as follows:

15 #82-1517. Payment of losses. (1) The state board of 16 hail insurance shall, as soon as practicable after the loss 17 has been sustained, arrange for the payment of the lessos-as 18 felless logs in the following manner, From the amount of the loss as adjusted for each claimant, the state board of 19 20 hail insurance shall deduct the amount the claimant then 21 owes as delinquent hail insurance tax and the maximum amount 22 assessed as hail insurance tax for the current year, and 23 shall make settlement within forty (40) days from the time loss is sustained in-the-following-manners-By by paying, 24 25 either by registered warrant or otherwise if funds are inmediately available, <u>fifty per cont 50%</u> of the total loss
 as agreed on <u>upon</u>, less, <u>herever</u>, the maximum rate of
 assessment, <u>The</u> balance to <u>shall</u> be paid at the expiration
 of the hail season.

(2) The state board of hail insurance shally on or 5 К before November first, 1 order payment for the amount so 7 deducted, which payment shall be remitted to the county 8 treasurer of the county in which the tax was assessed. The 9 state board of hail insurance shall then order payment for 10 the balance of the adjustment which waveest shall to be sent 11 to the claimant, provided, hewever, that in no case shall 12 13 per acre for grain crops on nonirrigated lands, and 14 forty-eight dollars (\$48) per acre on irrigated lands, and 15 not to exceed twenty-four dellars (\$24) per acre on hay crops, provided, further, that so No claimant shall may 16 17 receive payment for any loss incurred where said the loss does not equal or exceed five-per-seat-{5%} of the total 18 19 value of the crop insured. Also if If the losses in any year 20 should exceed the current levy plus the reserve, if any, 21 then the payment of all losses shall be prorated share and 22 share alike among all grain growers having loss claims adjusted and approved, and the unpaid balance of said the 23 losses shall be paid out of the reserve without interest in 24 25 such order as the state board ef-hail-issurance-shall-direct

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## LC 0052/01

directs, when in the judgment of the said board there are 1 sufficient moneys to provide for the payment of the same and 2 other items payable out of said the reserve. In any year 3 the state board of hail insurance may by resolution а authorize its chairman and secretary to borrow as needed 5 from any person, bank, or corporation such sum or sums of 6 money as the state board may deem consider necessary to 7 gappy on the business of the dopartment and for the purpose 8 of paying all warrants as issued. 9

(3) For any moneys borrowed under the provisions of 10 this act, the state board of hail insurance shall cause 11 warrants to be drawn, and said The warrants shall bear 12 interest at not to exceed six-per sent (6%) per annum a year 13 and said the warrants and the interest thereon shall be paid 14 out of funds from the state hail insurance department 15 program as they are collected from the various counties in 16 the state. The state board of hail insurance shall may not 17 at any time borrow a total sum greater than the amount of 18 19 levies as made for taxes for the current year together with such delinquent taxes as remain unpaid on the books of the 20 21 county treasurer."

22 Section 34. Section 82-1519, B.C.H. 1947, is amended
23 to read as follows:

24 #82-1519. Compensation of chairman and officers - 25 report. It shall be the duty of all public officers to

1	POFFOFAthodutiogrolativoto-hail-insurance-under-this
	•
2	agty-without other-cospendation than that allowed - by-law.
3	(1) The chairman appointed members of the state board of
4	hail lusurance shall receive <del>a salary in such amount as may</del>
· 5	bespecifiedbythelegislativeassesblyinthe
6	appropriation-to-the-board-of-hail-insurance-and-all
7	appointed officers and opployees adder this ast shall be
8	allowed the per-dism-and milorge allowed stateemployees a
. 9	per dies of \$25 for each day they are engaged in the
10	transaction of official business.
11	The compensation of all appointed officers and
12	exployees of the board shall be fixed by the state board of
13	<del>hail issureson. If the logi</del> slative ascessly does not specify
14	the marinum malary-for the boad of the -agency, -the - calary
15	shall be find by the state board of hail insurance after
16	approval-by-the-beard-uf-oranisereBefere-approving-any
17	salaryisorease,thebeardof-examiners-shall-review-the
18	salaries of comparable positions and metana state
19	goveragest, ether-states,-and-private-industry.
20	<b>The-shairman-of-the-state-board-of-bail-insuranse-</b> shall
21	coport as provided is section 2 [82-4002] of this act.
22	(2) All board members and employees shall be allowed
23	expenses as provided in 59-538, 59-539, and 59-801.
24	(3) All other public officials specified in this
25	chapter shall perform the duties relative to hail insurance

LC 0052/01

## LC 0052/01

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## 1 without other compensation than that allowed by law."

## 2 Section 35. Repealer. Sections 3-2601 through 3-2606,

## 3 R.C.H. 1947, are repealed.

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-End-

HOUSE MEMBERS

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LC 0052

1977 Legislature Code Commissioner Bill - Summary

SenateBill No. 19

FOR THE GENERAL REVISION AND CLARIFICATION OF THE LAWS RELATING TO AGRICULTURE.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. <u>3-201</u>. Deleted reference to "this act", since the definitions given in this section for "grain", "warehouseman", etc., should apply to the entire Title, rather than "this act" (Chapter 216, Laws 1921), which now comprises only a portion of Chapters 1 and 2 of the Title. The definitions here are generally construed to apply to the entire title whenever a definition is required. Only chapters 1 and 2 of the current title use the terms. The reference to "this act" is thus not necessary to restrict the application of the definitions, and is in fact unduly restricting those definitions since later acts, codified in Chapter 2, use some of the terms (see 3-228.1) without defining them, apparently depending on the definition supplied in this section.

Section 2. <u>3-205</u>. Changed "this act" to "this chapter" to include later enforcement responsibilities added by subsequent acts codified in Chapter 2. Deleted "federal" because not part of the official name of the Grain Standards Act.

Section 3. 3-210. Deleted "federal" because not part of the official name of the "Grain Standards Act".

Section 4. 3-220. Grammatically restructured and combined the last two sentences of the section.

Section 5. 3-224. Changed "storage ticket" and "storage receipt" to "warehouse receipt" to make terminology uniform. The terms are all synonomous. Also reworded last sentence for grammatical clarity and changed "act" to "section" to more accurately reflect legislative intent.



Section 7. <u>3-227</u>. Changed "storage receipt" to "warehouse receipt" for reason explained above.

Section 8. <u>3-710</u>. Changed "storage receipts" to "warehouse receipts" for reason stated above.

Section 9. <u>3-712</u>. Changed "storage certificates" to "warehouse receipts" as explained above.

Section 10. 3-802.2. Made grammatical change. Changed reference to "section 3-820" to "section 3-802.4" to reflect the 1974 redesignation of 3-820.

Section 11. <u>3-802.4</u>. The reference in subsection (4)(d) to the "Federal Seed Act of August 1963" is incorrect and is changed to "Federal Seed Act of August, 1939, 7 U.S.C. 1551 through 1610".

Section 12. <u>3-804</u>. Changed "this act" to "sections 3-802.1 through 3-808". "This act" was Chapter 12, Laws 1913, part of which was replaced by 3-802.1 through 3-802.5, and it would seem that by retaining this penalty clause the intent was that it should apply to the new replacement sections. Sections 3-805 through 3-807, with the exception of 3-806.1, are of course part of "this act". 3-806.1 would not be affected by the penalty of 3-804, hence the reference to "3-802.1 through 3-808" would be correct.

Section 13. <u>3-805</u>. Changed "this act" to "sections 3-802.1 through 3-808" as explained above.

Section 14. 3-807. Changed "this act" to "sections 3-802.1 through 3-808" as explained above.

Section 15. 3-1215. This section and 3-1218, both of which provide penalties, conflict in that both purport to cover some of the same general activity but each provides a different penalty. 3-1215 is amended to make it consistent with 3-1218, which is the later statute.

Section 16. <u>3-1405</u>. Added "to indicate" to help clarify meaning of subsection (a) [now (1)].

Section 17. <u>3-1406</u>. Changed "up" to "conform" for grammatical clarity.

Section 18. <u>3-1714.3</u>. Added "shall be guaranteed" in (1) (d) for clarification. Added lead-in line following (1)(a) for clarification and proper outline format. Deleted last sentence of (1)(c) because by its terms 3-1718 is already applicable, and this sentence is redundant. The presence of this sentence in (1) (c) may also imply that 3-1718 does not apply to (1)(a) and (1)(b), which would be an erroneous implication.

Section 19. <u>3-1729</u>. The internal references to 3-1717 and 3-1721 are incorrect, both of those sections having been repealed. 3-1717 is replaced with 3-1717.1. 3-1721.1 was enacted when 3-1721 was repealed; however, 3-1721.1 does not seem appropriate as a cross-reference in this section. Added "licensee" in last sentence since 3-1717.1 requires fees from "licensees" as well as "registrants".

Section 20. <u>3-1901</u>. Deleted first definition of "sample grade" leaving the second definition in the chart for the sake of having a complete chart. Reworded the chart title and designated it as such.

Section 21. <u>3-1902</u>. The reference in subsection (8) to "Bulletin 1065  $\overline{U.S.D.A.}$  dated May 18, 1922" is inaccurate and is replaced with "prescribed by the department". The reference in subsection (6) to "U.S.D.A. Bulletin No. 1375" is accurate presently, but, because such bulletins tend to become outdated, should possibly be replaced with "as prescribed by the department". This has not been done in this bill. Made other grammatical and form changes. In new subsection (5) "content of" was added for clarification.

Section 22. <u>3-1903</u>. The reference to "Bulletin 1065 U.S.D.A. dated May 18, 1922" is replaced with "as prescribed by the department" as explained above.

Section 23. 3-3112. Reworded for grammatical clarity.

Section 24. 3-3303. Reworded (2)(d) and rearranged (3).

Section 25. 3-3312. The reference to 3-3411 is wrong, there being no 3-3411. The reference is changed to 3-3311, the proper reference. See legislative history of the sections.

Section 26. <u>3-3402</u>. Deleted first list of grades to facilitate proper numbering and because unnecessary.

Section 27. <u>3-3501</u>. Deleted reference to 16-1153 in subsection (3) and replaced with the definition given there, since 16-1153 will be repealed if the local government code is adopted.

Section 28. 27-220. Reworded and deleted subsection designations in subsection (1).

Section 29. <u>27-232</u>. Deleted temporary language and added "annually" to clarify that this is an annual requirement.

Section 30. 27-237 Added "rule" to clarify where petitions must be filed in case of an adverse rule.

Section 31. <u>82-1502</u>. The different funds of the hail insurance program appear to be the "agency fund" referred to in 82-1511 and 82-1507(5), the "reserve fund" referred to in 82-1507(1)(c), (3), (4), and (5), and the "board's account in the earmarked revenue fund" referred to in 82-1511 and which is used for payment of administrative expenses. The fund mentioned in 82-1502 appears to be the "reserve fund" since 82-1507(4) speaks of an actuarial valuation of that fund, and this section 82-1502 requires the fund to be "actuarially sound". Added "reserve" before "fund" to clarify to which fund this section is referring.

Section 32. <u>82-1506</u>. Rewritten for grammatical clarity. The "lien created above", in subsection (2), apparently is the lien created in subsection (3), that being the first time any real estate lien is mentioned. Changed accordingly.

Section 33. <u>82-1517</u>. Made grammatical changes. Deleted "necessary to carry on the business of the department" in last sentence of subsection (2) since the board obviously cannot borrow money to fund a state department, and the sentence is complete and accurate without this phrase. The word department, also used in subsection (3), originally meant "hail insurance department". Current terminology would be "hail insurance <u>program</u>", with department indicating "department of agriculture".

Section 34. <u>82-1519</u>. This section is rewritten. References to "officers of the board" are deleted, with all persons either being "members" or "employees" of the board. A standard per diem is established in the new version for members. Before, it was unclear how their salaries were set. If "members" were "appointed officers", then they set their own salary. If not, then apparently there was no provision for any salary. "Head of the agency" is holdover language from before reorganization and is deleted. Expense and mileage rates are changed in accordance with 59-538, 59-539, and 59-801.

Section 35. Sections <u>3-2601 through 3-2606</u> constitute an appropriation measure passed in 1949 and should never have been codified. They are repealed in this bill to avoid any question of whether or not they may have any continuing authority. 45th Legislature

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LC 0052/01

Approved by Committee on Agrigulture Livestock & Irrigation

1	SENATE BILL NO. 19
2	INTRODUCED BY GRAHAM
3	
4	A BILL FOR AN ACT ENTITLED: MAN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO AGRICULTURE."
6	
7	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
8	Section 1. Section 3-201, B.C.M. 1947, is amended to
9	read as follows:
10	"3-201. Definitions. (1) <del>Thenever the The</del> word "grain"
11	ispostionedin-this-acty-it-shall-be-construed-to-inslude
12	inclodes flax.
13	(2) The term "public warehouse" includes any elevator,
14	mill, warehouse, or structure in which grain is received
15	from the public for storage, milling, shipment, or handling.
16	<u>[3]</u> The term "public warehouseman" <del>shall be held to</del>
17	<pre>sean and includes every person, association, firm_</pre>
18	and corporation owning, controlling, or operating any public
19	warehouse in which grain is stored or handled in such a
20	manner that the grain of various owners is mixed together,
21	and the identity of the different lots or parcels is not
22	preserved.

[4] The term "grain dealer" shall-be-held-to-mean-and 23 includes every person, firm, association, and include 24 corporation owning, controlling, or operating a truck, 25

There are no changes in SB19, & will not be re-run. Please refer to white copy for complete text. SECOND READING

tractor-trailer unit, or warehouse, other than a public 1 warehouse, and engaged in the business of buying grain for 2 З shipment or milling. (5) The term "track buyer" shall--mean-and-include 8 includes every person, firm, association, and corporation 5 where which engages in the business of buying grain for 6 7 shipment or milling, and who which does not own, control, or operate a warehouse or public warehouse. 8 (6) The terms "agent,", "broker,", and "commission 9 10 man" shell mean and include every person, association, firm, and corporation who which engages in the business of 11 12 negotiating sales or contracts for grain or of making sales 13 or purchases for a commission." Section 2. Section 3-205, R.C.B. 1947, is amended to 14 15 read as follows: \*3-205. Inspectors of grain -- samplers and weighers 16 --- gualifications --- interest. The department shall provide 17 inspectors, samplers, and weighers to enforce this act 18 19 chapter. At all inspection points designated by the department, the department shall provide sufficient 20 inspectors and weighers to inspect and weigh all grain 21 subject to state inspection, under the supervision of the 22 23 department. However, grain held in transit for inspection and diversion only, need not be weighed. Inspectors shall be 24

- able to qualify under the terms and in accordance with the 25
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United States Poderal Grain Standards Act. Inspectors,
 samplers, and weighers may not be interested directly or
 indirectly in the handling, sorting, shipping, purchasing,
 or selling of grain or grain products."

5 Section 3. Section 3-210, R.C.M. 1947, is anended to 6 read as follows:

7 "3-210. Rules governing dockage --- sample inspection. 8 The department shall, after the hearing provided in section 9 3-209, adopt rules governing the dockage which shall be made 10 on inferior grades and in all executory contracts entered into after the hearing. The rules may not conflict with the 11 12 terms of the United States Federal Grain Standard Act. Where 13 the price or amount to be paid depends on terminal weight or grade, the rules shall control the dockage in se far insofar 14 15 as it affects the price to be paid, and the rules become 16 part of the contract of sale. The department shall also 17 provide for sample inspection of grain, adopt rules 18 governing sample inspections, and provide that the sample 19 inspection when made is final."

20 Section 4. Section 3-220, R.C.H. 1947, is amended to 21 read as follows:

\*3-220. Regulation of sale and storage of
 grain identity of grain in general storage <u>Designation of</u>
 grain delivered to warehouse. In cases of grain being sold
 outright to the warehouseman at the time of delivery or

grain placed in store with the warehouseman to be sold at a 1 2 future time to the warehouseman to whom delivered, settlement shall be made on the basis of grade, quality, 3 protein content, and quantity. In cases of storage of grain 8 5 with intent of future redelivery of the grain, the owner must so designate at time of delivery to enable the 6 7 warehouseman to special bin. Failure Upon failure to so designate at time of delivery, the grain will lose its 8 9 identity in general storage, Therefore, whereupon the owner 10 agrees is obligated to accept quantity of like grade, kind, and quality (as provided for under the United States Federal 11 12 Grain Standards Act) from the warehouseman's general 13 storage."

14 Section 5. Section 3-224, R.C.H. 1947, is amended to 15 read as follows:

#3-224. Termination of storage contract --- sale of 16 grain for charges. Storage on any or all grain may be 17 terminated by the owner at any time before the date 18 mentioned herein by the payment or tender of all legal 19 charges and the surrender of the storage warehouse receipt, 20 together with a demand for delivery of such grain, or notice 21 22 to warehouseman to sell the same. In the absence of a demand for delivery, order to sell, or mutual agreement for 23 the renewal of the storage contract entered into prior to 24 25 the expiration of the storage contract, as proscribed in

SENATE BILL NO. 19 1 2 INTRODUCED BY GRAHAM 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 4 CLARIFY THE LAWS RELATING TO AGRICULTURE." 5 6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 7 Section 1. Section 3-201, R.C.M. 1947, is amended to 8 read as follows: 9 "3-201. Definitions. (1) Whenever the The word "grain" 10 is -- sestioned -- in this act, it - shall be construed to include 11 12 includes flar. (2) The term "public warehouse" includes any elevator, 13 mill, warehouse, or structure in which grain is received 14 15 from the public for storage, milling, shipment, or handling. (3) The term "public warehouseman" shall-be-held-to 16 mean and includes every person, association, firm, 17 18 and corporation owning, controlling, or operating any public warehouse in which grain is stored or handled in such a 19 manner that the grain of various owners is mixed together, 20 21 and the identity of the different lots or parcels is not preserved. 22 (4) The term "grain dealer" shall be held to seas - and 23 includes every person, firm, association, and 24 corporation owning, controlling, or operating a truck, 25 There are no changes in 3B/9, & will not be re-run.

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THIRD READING

tractor-trailer unit, or warehouse, other than a public
 warehouse, and engaged in the business of buying grain for
 shipment or milling.

4 <u>(5)</u> The term "track buyer" shall mean and isolude 5 <u>includes</u> every person, firm, association, and corporation 6 whe which engages in the business of buying grain for 7 shipment or milling, and whe which does not own, control, or 8 operate a warehouse or public warehouse.

9 (6) The terms "agenty", "brokery", and "commission 10 man" shall mean and include every person, association, firm, 11 and corporation who which engages in the business of 12 negotiating sales or contracts for grain or of making sales 13 or purchases for a commission."

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LC 0052/01

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1	SENATE BILL NC. 19
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REFERENCE BILL

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9 (6) The terms "agenty", "brokery", and "commission nan" shall-mean-and include every person, association, firm, and corporation whe which engages in the business of negotiating sales or contracts for grain or of making sales or purchases for a commission."

14 Section 2. Section 3-205, R.C.N. 1947, is amended to 15 read as follows:

16 \*3-205. Inspectors of grain -- samplers and weighers 17 -- qualifications -- interest. The department shall provide inspectors, samplers, and weighers to enforce this and 18 charter. At all inspection points designated by the 19 department, the department shall provide sufficient 20 inspectors and weighers to inspect and weigh all grain 21 subject to state inspection, under the supervision of the 22 department. However, grain held in transit for inspection 23 and diversion only, need not be weighed. Inspectors shall be 24 25 able to qualify under the terms and is accordance with the

- 2-

SP 19

United States Federal Grain Standards Act. Inspectors,
 samplers, and weighers may not be interested directly or
 indirectly in the bandling, sorting, shipping, purchasing,
 or selling of grain or grain products."

5 Section 3. Section 3-210, R.C.H. 1947, is amended to
6 read as follows:

7 "3-210. Bules governing dockage -- sample inspection. 8 The department shall, after the hearing provided in section 9 3-209, adopt rules governing the dockage which shall be made 10 on inferior grades and in all executory contracts entered 11 into after the hearing. The rules way not conflict with the terms of the United States Federal Grain Standard Act. Where 12 the price or amount to be paid depends on terminal weight or 13 14 grade, the rules shall control the dockage in se far insofar 15 as it affects the price to be paid, and the rules become part of the contract of sale. The department shall also 16 provide for sample inspection of grain, adopt rules 17 governing sample inspections, and provide that the sample 18 19 inspection when made is final."

20 Section 4. Section 3-220, R.C.M. 1947, is amended to 21 read as follows:

22 "3-220. Regulation of sale and storage of
23 grain-identity of grain in general storage resignation of
24 grain delivered to warehouse. In cases of grain being sold
25 cutright to the warehouseman at the time of delivery or

grain placed in store with the warehouseman to be sold at a 1 2 future time to the warehouseman to whom delivered, 3 settlement shall be made on the basis of grade, quality, 4 protein content, and quantity. In cases of storage of grain with intent of future redelivery of the grain, the owner 5 6 must so designate at time of delivery to enable the 7 warehouseman to special bin. Failure Upon failure to so в designate at time of delivery, the grain will lose its 9 identity in general storage, Therefore, whereupon the owner agrees is obligated to accept quantity of like grade, kindy 10 11 and quality (as provided for under the United States Foderal 12 Grain Standards Act) from <u>th</u>e warehouseman's general 13 storage."

14 Section 5. Section 3-224, B.C.H. 1947, is amended to 15 read as follows:

16 \*3-224. Termination of storage contract -- sale of 17 grain for charges. Storage on any or all grain may be terminated by the owner at any time before the date 18 19 mentioned herein by the payment or tender of all legal 20 charges and the surrender of the storage warehouse receipt, 21 together with a demand for delivery of such grainy or actice to warehouseman to sell the same. In the absence of a 22 23 demand for delivery, order to sell, or mutual agreement for 24 the renewal of the storage contract entered into rrior to the expiration of the storage contract. as-preceribed-in 25

-4-

-3-

SB 19

SÐ 19
this-act. the warehousewan shall, upon the expiration of the 1 2 storage contract, sell so much of such stored grain at the з local market price on the close of business on said that day as is sufficient to pay the accrued storage charges, and 4 5 shall thereupon issue new storage tickets warehouse receipts for the balance of the grain to the cwner thereof upon 6 7 surrender by him of the original storage warehouse receipts. 8 Provided, -- further, -- that -- it -- shall -- be-the-duty-of-the The 9 warehouseman on-the first day of Jane of each year to notice 10 shall notify all storage ticket warehouse receipt helders at 11 their-last-known-address of the provisions of this ast 12 section by Jone 1 of each year.\*

13 Section 6. Section 3-225, R.C.H. 1947, is amended to
14 read as follows:

15 "3-225. Disposal of grain forbidden without notice to 16 department of agriculture and compliance with law 17 forbidden-delivery-of-grain-for-warehouse-receipts. No such 18 warehouseman shall may sell or otherwise dispose of  $\tau$  or 19 deliver out of store, except to the owner, any stored grain, 20 except upon notice, in advance, to the department of agriculture, and after complying in full with the laws of 21 the state and the regulations of the department <del>of</del> 22 23 agriculture relating to the handling of stored grain. Any person, firm, association, or corroration owning or 24 operating more than one public warehouse in this state shall 25

be-permitted to-make-delivery-of may deliver wheat grain
 from one warehouse in settlement of warehouse receipts
 issued for grain stored in another warehouse, when grain for
 storage has been presented at any warehouse in excess of its
 available storage capacity. Provided, provided that:

6 <u>(1)</u> this chall <u>does</u> not be construed as conferring 7 <u>confer</u> upon such warehouseman a right to make delivery of 8 grain of substantially lower value than that delivered for 9 store, though of the same technical grade, in settlement of 10 warehouse receipts; and provided further, that

<u>(2)</u> such warehouseman shally at all times, keep on
 hand in bonded warehouses grain of quality and quantity
 sufficient to settle all outstanding storage warehouse
 receipts, Provided, further, that and

15 (3) freight and other charges shall be figured on the
16 basis of the point of receipt."

Section 7. Section 3-227, B.C.M. 1947, is amended to
read as follows:

19 "3-227. Annual report of warehouseman, track buyer, 20 and grain dealer — special reports — penalty for failure 21 to report. On June 30 of each year, every each warehouseman, 22 track buyer, and grain dealer shall make a report, under 23 oath, to the department, on forms prepared by it. The report 24 shall show the total weight of each kind of grain received 25 and shipped by the warehouseman, track buyer, and or

-6-

-5-

SB 19

.1 licensed grain dealer, the amount of cutstanding storage 2 warehouse receipts on that date, and a statement of the з amount of grain on hand to cover them. The department may 4 also require special reports from a warehouseman, grain 5 dealer, or track buyer at any time. The department may 6 inspect the business of every warehouseman, track buyer, and 7 grain dealer and the sethed of conducting the business. 8 whenever considered proper. The books, accounts, records, 9 papers, and proceedings of every warehouseman, track buyer, 10 and grain dealer are at all times during business hours 11 subject to inspection. A person who knowingly falsifies any 12 of its his reports to the department, who fails to make the 13 reports when requested by the department, or who refuses or 14 resists inspection is guilty of a misdemeanor and shall be 15 fined of not less than three-hundred-dollars-(\$300) ser or 16 more than five handred dellars-{\$500}."

17 Section 8. Section 3-71C, B.C.M. 1947, is amended to
18 read as follows:

\*3-710. Bules to be adopted by department. The
department shall adopt rules it considers necessary for the
safe conduct of the business referred to in this act,
including a scale of storage charges and storage warehouse
receipts. The department may require reports, from any
warehouseman or person receiving stored beans, on forms
prepared by the department."

SE 0019/02

Section 9. Section 3-712, B.C.M. 1947, is amended to
 read as follows:

"3-712. Storage constitutes bailment -- duty to keep 3 beans in storage. The storage of beans under this act 4 5 constitutes a bailment, and upon the return of the warehouse receipt properly endorsed, and upon the payment or tender of 6 7 all advances and legal charges, the holder of the warehouse 8 receipt is entitled to  $\tau$  and the warehouseman shall deliver  $\tau$ 9 the identical grade and amount of beans placed in storage. A 10 dealery under this acty shall maintain at all times in 11 original storage beans equal in amount and grade to all 12 storage certificates warehouse receipts issued, unless 13 authorized in writing by holders of receipts or by the 14 departmenty to move to other storage. Failure to maintain 15 the proper amount of beans is a conversion."

Section 10. Section 3-802.2, R.C.M. 1947, is amended
to read as follows:

18 "3-802.2. Labeling of agricultural seeds. (1) The 19 cwaer, wendor, or person in possession of each and every any 20 package, parcel, or lot of agricultural seeds, as defined in 21 the--first--section-f3-802.13-of-this-act, that contains one 22 -(1) poundy or morey of agricultural seeds, whether in 23 package or in bulk, shall, before offering the seeds for 24 sale, affir in a conspicuous place on the exterior of the 25 container a written or printed label in the English language

-7-

-8-

SB 19

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1	in legible type or copy <del>and-the-label-shall-sectain</del>
2	<u>ccntaining</u> a statement specifying:
3	<del>(1)<u>(a)</u> A <u>a</u> lot number or other distinguishing mark<del>.</del>;</del>
4	(2)1b) Kind kind. The name of each kind of seed
5	present in excess of <del>five-per-sent-(</del> 5% <del>)</del> shall be shown on
6	the label and need not be accompanied by the word "kind,",
7	When two or more kinds of seed are named on the label, the
8	name of each kind shall be accompanied by the percentage of
9	each. When only one kind of seed is present in excess of
10	<del>five per cent (</del> 5%) and no variety name or type designation
11	is shown, the percentage of that kind way be shown as "Fure
12	seed" and such percentage shall apply to seed of the kind
13	named.
14	(c) <del>Varioty, Variety, as follows:</del>
15	<del>(a)[i] The <u>the</u> following kinds of agricultural seeds</del>
16	are-generally-labeled-as-te-variety-and shall be labeled to
17	show the wariety name or the words " <del>Waricty-Not-Stated</del>
19	<u>variety_pct_stated</u> ":
19	Alfalfa alfalfa Oat oat
20	For pea, field
21	<del>Dean <u>hean</u>, field <del>hye</del> Iye</del>
22	Beet beet, field Safflower safflower
22	Breve brong granth Corshue corshue

.

23	Brose brogg, smooth	<del>Sorghue</del> <u>scrabue</u>
24	- Clover <u>clcver</u> , crimson	Serghus-Sudan sorghus-sudan
25		hybrid

-9-

 Glover clover, red
 Sorbeat Scybean

 Clover clover, white
 Sudangrace sudan grass

 Corn corn, field
 Sunflower sunflower

 Corn corn, pop
 Trefeil trefoil, Firdefoot birdsfoot

 Penoue fescue, tall
 Wheat wheat, connon

 Plax flax
 Wheat wheat, Durwe durun

 Hillet millet, fortail
 Sundangrace substance

8 (b) (ii) If if the name of the variety is given, the 9 name way be associated with the name of the kind with or 10 without the words "kind and variety.". The percentage in 11 this case may be shown as "pure seed" and shall apply only 12 to seed of the variety named. If separate percentages for 13 the kind and the variety or hybrid are shown, the name of the kind and the name of the variety or the term "hybrid" 14 shall be clearly associated with the respective percentages. 15 16 When two cr more varieties are present in excess of five-per cent---(5%) and are named on the label, the name of each 17 18 variety shall be accompanied by the percentage of each-;

19 (3)(d) If that the seed is hybrid, if any one kind or 20 kind and variety of seed present in excess of five-per-seat 21 (51) is "hybrid" seed, it shall be designated ... "hybrid" - en 22 the label. The percentage that is hybrid shall be at least 23 ninety five-per-sent (95%) of the percentage of gure seed 24 shown unless the percentage of gure seed which is hybrid 25 seed is shown separately. If two or more kinds or varieties

SE 0019/02

-10- SB 19

1 are present in excess of five-per-sent-(5%) and are named on 2 the label, each that is hybrid shall be designated as hybrid 3 on the label. No one kind or variety of seed may be labeled as hybrid if the pure seed contains less than 75% bybrid a 5 seed. Any one kind or kind and variety that has rure seed б which is less than minety-five-per cont-(95%) but more than 7 seventy-five--per--cont--(75%) hybrid seed as a result of 8 incompletely controlled pollination in a cross shall be 9 labeled to show:

(a) (i) the percentage of pure seed that is hybrid 10 11 seed; or

12 (b) (ii) a statement such as "Contains from seventy-five 13 per-sent-(75%) to minoty-five per-sent-(95%) hybrid seed.": Bo-ose-kind-oz-wariety-of-seed-shell-be-laboled-as-bybrid-if 14 15 the-pure-seed-sentains-less-than-seventy-five-per-cent-(75K) hybrid-seed. 16

17 (4) (e) Griginy state or foreign country of origin, if known, of alfalfa, red clover, white clover, native range 18 grasses, and field corn other than hybrid. If the origin is 19 20 unknown, the fact shall be stated.

(5) (f) The the approximate percentage of germination 21 of agricultural seed, together with the date of test of 22 germination. In all cases where hard seeds remain at the end 23 of the germination test, the percentage of actual 24 25 germination and the perceptage of hard seeds shall be stated

-11-

SE 19

separately+, with the provision that any portion or all of 1 2 the percentage of hard seeds may be added to the percentage 3 of germinationy and stated as "total germination and hard 4 seed.".

5 (6) (g) The the approximate percentage by weight of pure seed, meaning the freedom of agricultural seeds from б inert matter and from other seeds-: 7

8 (7) (h) The the approximate percentage by weight of 9 sand, dirt, broken seeds, sticks, chaff, and other inert 10 matter combined in agricultural seeds-:

11 (8)(i) The the approximate total percentage by weight 12 of weed seeds .:

13 (9)(1) The the approximate percentage by weight of 14 other crop seeds in agricultural seeds-:

15 (10) (k) The the name and approximate number of each 16 kind or species of restricted ackious weed seeds occurring 17 per pound of agricultural, vegetable, or flower seeds-;

18 (14) [1] The the full name and address of the seedsman, 19 importer, dealer or agent, or other person, or--persone,--or 20 firm, or corporation selling the agricultural seed-;

21 (12) (m) In in the case of mixtures of agricultural 22 seeds which contain two (2) or more kinds of seed in excess 23 of five-por-cont-(5%) by weight of each, when sold as 24 mintures:

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25 (a) (i) Name name of mixture;

(b) (ii) the name and approximate perceptage by weight 1 of each kind of agricultural seed present in the mixture in 2 excess of five-ser-sent-(5%) by weight of the total 3 a minture-:

5 (iii) Approximate approximate percentage by weight 6 of broken seeds and other inert matter in the mixture of 7 agricultural seeds+;

(d) (iv) Approximate approximate percentage by weight of 8 9 weed seeds as defined in the first section [3-802.1] of this 10 <del>401.</del>;

(e) (v) appresimate approximate percentage by weight of 11 other crop seed in the mixture of agricultural seeds-: 12

13 (vi) The name and approximate number of each kind or 14 species of restricted norious weed seeds occurring per pound 15 of mixtures of agricultural seeds, subject, however, to restrictions as specified in the fourth section []-020] -of 16 17 this-act 3-802.4-:

percentage 18 -(q) (vii) Approximate approximate of germination of each kind of agricultural seed present in the 19 20 mixture in excess of five-per-cent-(5%) by weight, together with the month and year the seed was tested. In all cases 21 where hard seeds remain at the end of the germination test, 22 the percentage of actual germination and the percentage of 23 hard seeds shall be stated separately, with the provision 24 25 that any portion or all of the hard seed may be added to the

-13-

SB 19

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percentage of germination and stated as "total germination 1 2 and bard seed.".

3 (h) (viii) Pull full name and address of the vender of 4 the mixture.

5 (13) (2) When seed is exchanged or transferred from one seed labeler to another, it shall be accomparied by a 6 7 shipping document which clearly shows the kind(s) of seedand quantity of each kindy. and each Bach container in a lot 8 9 shall carry appropriate lct number designation, and shall be 10 accompanied by mechanical analysis for each lct so involved." 11

12 Section 11. Section 3-802.4, R.C.B. 1947, is amended 13 to read as follows:

14 "3-802.4. Prohibitions. A person, firm, corporation, 15 sopartnorship partnership, or association may not sell or 16 transport for use in glanting in this state any 17 agricultural, vegetable, or flower seed that:

18 (1) Contains contains prohibited norious weed seeds-; 19 (2) Contains contains restricted actions weed seeds in 20 excess of the maximum numbers per pound as follows:

#### Number allowed of seeds 22 Species ter rcand 23 Bedder dodder (Cuscuta spr.) 18 27 24 Sive blue lettuce (Lactuca pulchella)

25 St. Johnswort (Eypericum perforatum) 27

-14-

## SB 0019/02

1	<del>Gzeye</del> <u>oxeye</u> daisy	(Chrysanthemum leucanthemum)	90
2	Spotted spotted knapweed	(Centaurea maculosa)	18
Э	<del>Heary <u>boary</u> alyssum</del>	(Berteroa incana)	9
4	Hild Wild oats	(Avena fatua)	45
5	<del>Buckhorn</del> <u>buckhorn</u> plantain	(Flantage lanceolata)	S C
6	Ghickweed chickweed	(Stellaria spp.)	9
7	Curly curly dock	(Fumex crisțus)	45
8	(3) <del>Contains</del> <u>contai</u> n	in excess of <del>two-per-sent-(</del>	2%}
9	cr more of weed seed		

10 (4) Is is offered or exposed for sale more than aime 11 -49+ calendar months from the last day of the month in which 12 the germination test was completed. This aime--{9}--menth 13 9-month limitation does not apply when seed is packaged in 14 15 after harvest. The container sust be conspicuously labeled 16 in not less than eight (8)-peist B-point type to indicate 17 that:

18 (a) That the container is hermetically sealed -:

19 (b) That the seed has been preconditioned as to
20 moisture content.

21 (c) That the germination test is valid for a period 22 not to exceed eighteen...(18) months from the date of the 23 germination test for seeds offered for sale on a wholesale 24 basis, and for a period not to exceed thirty-siz-(36) months 25 for seeds offered for sale at retail...

- 15-

SE 19

(d) That the germination of vegetable seed at the time
of packaging was equal to or above standards prescribed in
the Federal Seed Act of August 1963 1939, 7 U.S.C. 1551
through 1610, with subsequent revisions.

5 (5) He is represented in any manner to be for lawn 6 seeding purposes, unless it contains at least fifty-per-cent 7 +50%+ pure seed of perennial fine-textured species which shall be specified by rules under this act. However, grass 8 9 mixtures which do not contain fifty per sent (50%) pure seed of perennial fine-textured grasses may be sold. When these 10 grass mixtures are contained in packages of twenty-five-{25} 11 12 pounds or less, they shall carry the statements: "Not recommended for a fine-textured perennial turf. Satisfactory 13 for a temporary ground cover or where coarse grass is not 14 15 objectionable.", A definition of fine-textured varieties to be adopted in the rules is as follows: 16

17 (a) Bluegrasses bluegrasses—all varieties except
18 Canada Bluegrass bluegrass (Fca compressa), herval-Bluegrass
19 annual\_bluegrass (Pca annua), and Bough Bluegrass rough
20 bluegrass (Pca trivialis).

(b) Chewings-Red-Fessure chewings red\_fescue and all
 isproved varieties;

23 (c) Greeping-Red-Fescue creeping red fescue and all

24 improved varieties\*;

25 (d) Bentgrass bentgrass--all varieties-:

- 16-

(e) Fine fine-textured Ryegrasses Tyegrasses. 2 (6) The-labeling,-adverticing-or-other--representation

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3 subject -- to -- this -- act -- represents -- the seed -- to -- be is latled. 4 advertised, or otherwise represented as being certified seed 5 of-any-class-thereof unless:

(a) it has been determined by a seed certifying agency 6 7 that such seed <del>conformed</del> conforms to standards of purity and identity as to kind, species (and subspecies, if 8 9 appropriate), or variety; and

(b) that the seed bears an official label issued for 10 11 such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind, species 12 13 (and subspecies, if appropriate), or variety-;

(7) Is labeled with a variety mame for which a U.S. 14 15 certificate of plant variety protection has been issued or 16 applied for under the provisions of the Plant Variety Protection Act (7 U.S.C. 2321 et. seq.) - without the 17 authority of the coner of the variety, or is labeled with a 18 variety name but not certified by an official seed 19 certifying agency when it is a wariety for which the 20 certificate or application for #protection# specifies sale 21 22 only as a class of certified seedt, provided, that seed from 23 a certified lot may be labeled as to variety name when used in a mixture by, or with approval of, the cwner of the 24 25 variety."

1 Section 12. Section 3-804, R.C.M. 1947, is amended to 2 read as follows:

3 "3-804. Penalty. Any person, firm, or corporation who 11 sells, or offers or exposes for sale or distribution in the 5 state any agricultural seeds for seeding curpeses- without 6 complying with the requirements of this ast, shall be deened 7 3-802.1 through 3-808, is guilty of a wisdemeasory and upon R conviction shall be fined not less than one-bundred--dellars 9 -{\$100}-- BOF or more than three-hundred-dellarg--{\$300}-and 10 plus costs of such prosecution, and upon conviction of the 11 second or any subsequent offense shall be fined not less 12 than five-handred--dellars--(\$500)---mex or more than ese 13 14 presecution."

15 Section 13. Section 3-805, R.C.H. 1947, is amended to 16 read as follows:

17 "3-805. Inspection by grain and seed laboratory --reports -- enforcement. (1) The grain and seed laboratory of 18 19 the agricultural experiment station shall inspect, analyze, 20 and test seeds soldy or offeredy or exposed for sale in this 21 state at a time and place and to an the extent as the 22 director of the agricultural experiment station and the 23 department of agriculture determine. The laboratory shall report to the department all viclations as they appear. It 24 25 shall also annually before September 1 make a report to the

- 18-

- 17-

SB 19

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. Opon tendering payment at the current value, the department may take any sample of seeds.

8 (2) The department shall administer and enforce this 9 act 3-802.1 through 3-808. For that purpose, the department 10 may adopt rules. The department may issue and enforce a 11 written or printed "stop sale" order to the cuner or 12 custodian of any lot of agricultural seed which the 13 department finds in violation of this age 3-802.1 through 14 3-808. The order shall prohibit further sale of the seed 15 until the department has evidence that the law has been 16 complied with. The seed may not be confiscated or destroyed. 17 Upon proper correction, by reprocessing, labeling, or 18 otherwise, and when, in the judgment of the department, the 19 requirements of this--act 3-802.1 through 3-808 have been 20 met, the stop sale order shall be lifted and the seed may be 21 sold. The department shall adopt all necessary rules 22 relating to the agricultural experiment station's duties 23 under this-ast 3-802.1 through 3-808."

24 Section 14. Section 3-807, R.C.M. 1947, is amended to 25 read as follows:

1 "3-807. Samples--may--be--sent--te--the-laboratory-for 2 Laboratory testing of samples -- rates. Any citizen of this 3 state may request the grain and seed laberatory to examine. 11 analyze, and test samples of seed upon payment of the fee and compliance with rules governing the submission of seed 5 samples for such service. Samples of seed analyzed and 6 7 tested shall be charged for at rates determined jointly by A the department and the director of the grain and seed 9 laboratory. All fees collected by the grain and seed 10 laboratory shall be used to defray the excenses incurred by 11 the laboratory under this ast 3-802.1 through 3-808."

12 Section 15. Section 3-1215, R.C.H. 1947, is amended to
13 read as follows:

14 "3-1215. Acts made unlawful -- pepalty. It shall-be is 15 unlawful for any person to falsely represent or to 16 misrepresent the name, age, wariety, or class of any nursery 17 stock sold or offered for saley; or to falsely represent or 18 state that any nursery stock offered for sale, sold, or 19 delivered was grown in or came from a certain nursery or locality, when in fact such nursery stock was grown in or 20 21 came from another location, or nursery; or to deceive or 22 defraud any person in the sale of any nursery stock by 23 substituting inferior or different varieties or ages from those ordered; or to willfully or intentionally bring into 24 25 this state, or-to affer for sale or distribution within this

-20-

- 19--

SB 19

1 state, or to ship, sell, or deliver upon any sale any 2 nursery stock that is infected or infested with any disease 3 or insect dangerous to the horticultural interests of the stater, and in In case of such misrepresentation, false 4 5 representation, deceit, fraud, or substitutics, chall--be 6 such person is subject to punishment as provided by the 7 statute-for-misdemeanor, 3-1218 and shall-be is liable to the person, firm, or corporation damaged or injured thereby, 8 the -- amount to the extent of all damages sustained, to be 9 10 recovered in a civil action in any court of competent 11 durisdiction."

12 Section 16. Section 3-1405, R.C.M. 1947, is amended to
13 read as follows:

14 "3-1405. Unlawful to sell or transport products unless labeled, tagged, or branded -- use of tags. (a) (1) It shall 15 16 be is unlawful for any person, firm, association, 17 organization, or corporation, or agent, representative, or 18 assistant to any person, firm, association, organization, or 19 corporation to expose for sale or sell, transport, deliver, or consign, or have in possession Montana farm 20 21 products and other farm products prepared for market unless 22 each container has been legibly and conspicyously tagged, 23 branded, labeled, or stenciled before being moved from the 24 premises of the person of persons responsible for the 25 grading and packing, to indicate the name of the grade, when

5 grade shall be declared on a red tag. Fulk shipments shall
6 be accompanied by two <del>121</del> cards not less than <del>four by six</del>

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weight.

7 4 x 6 inches (4864) in size, placed on the inside of the car 8 near each door. Likewise cards in size herein described shall be prominently placed on all bulk shipments made by 9 10 truck or other conveyance. Upon each card shall appear the 11 name and address of the consignor, the name of the grade, if 12 applicable, the name of the loading station, the date of 13 loading, and the name and address of the consignee, if 14 known. It shall be conclusive evidence that the farm 15 products are deemed considered for sale when the containers 16 are packed for delivery or transit, or when save are exposed 17 for sale, or--when-came are in process of delivery or 18 transit, or are located at a depot, station, bcat dock, or 19 any place where farm products, or other products are held for storage, or for issediate or future sale or transit." 20

applicable, together with the true net contents expressed in

shall be declared on a white tag, and United States Nc. 2

(1) When tags are used, United States No. 1 grade

Section 17. Section 3-1406, R.C.M. 1947, is amended to
read as follows:

23 "3-1406. Inspection of condition of products in
24 storage or transit. Bontana farm products and other farm
25 products held in storage or in transit which at the time of

-22-

-21-

SB 19

1 inspection show deterioration or decay but otherwise  $\frac{1}{2}$ 2 <u>conform</u> to the grade, shall be inspected as to condition and 3 not as to grade."

Section 18. Section 3-1714.3, R.C.M. 1947, is amended
to read as follows:

3-1714.3. Guaranteed analysis. (1) Until the
department prescribes the alternative form under subsection
(2) of this section, "guaranteed analysis" means the minimum
percentage of plant nutrients claimed in the following order
and form:

 11
 (a) The following plant mutrients shall be guaranteed:

 12
 Total mitrogen (N) ------ percent X

 13
 Available phosphoric acid (F205) ------ percent X

 14
 Soluble potash (K20) ------ percent X

 15
 (b) For unacidulated mineral phosphatic materials and

 16
 basic slag, bone meal, tankage, and other organic phosphatic

17 materials, the total phosphoric acid and degree of
18 fineness may also be guaranteed.
19 (c) Guarantees for plant nutrients other than

nitrogen, phosphorus, and potassium may be permitted or required by rules adopted by the department. The guarantees for other nutrients shall be expressed in the form of the element. The sources of other nutrients including, but not limited to, oxides, salt, and chelates, may be required to be stated on the application for registration and may be

-23-

SB 19

included as a parenthetical statement on the label. Other
 beneficial substances or compounds, determinable by
 laboratory methods, also may be guaranteed by permission of
 the department. When-any-plant-matricets-or-other-substances
 or-compounds-are-guaranteed, they-are-subject to-inspection
 and-analycis-in-accord-with--the--methods-and-regulations
 prescribed-by-section.3-1718.

8 (d) Potential basicity or acidity expressed in terms
9 of calcium carbonate equivalent in multiples of one--bundred
10 -(100)- pounds per ton, shall be guaranteed when required by
11 regulation.

12 (2) If the department finds, after public hearing, 13 that the requirement for expressing the guaranteed analysis 14 of phosphorus and potassium in elemental form would not 15 impose an economic hardship on distributors and users of 16 fertilizer by reason of conflicting labeling requirements 17 among the states, it may require by department rule that the 18 guaranteed analysis be in the following form:

 19
 Total nitrogen (N) \_\_\_\_\_\_ percent §

 20
 Available phosphorus (P) \_\_\_\_\_\_ percent §

 21
 Scluble potassium (K) \_\_\_\_\_\_ percent §

 22
 (3)
 The effective date of the rule may not be less

 23
 than cix-(6) months following the adoption of the rule. For

 24
 a period of two-(2) years following the effective date of

 25
 the rule, the equivalent of phosphorus and potassium may

-24-

also be shown in the form of phosphoric acid and potash.
 However, after the effective date of a rule requiring that
 phosphorus and potassium be shown in the elemental form, the
 guaranteed analysis for nitrogen, phosphorus, and potassium
 is the grade for those elements.

6 (4) Soil amendments shall guarantee the minimum 7 quantity of each active ingredient in terms approved by the 8 department or in terms as set forth in rules issued by the 9 department. They shall also meet any other requirements 10 established by rule by the department."

Section 19. Section 3-1729, B.C.B. 1947, is amended to
read as follows:

"3-1729. Assessment to fund educational 13 and experimental programs -- collection. Moneys to fund this act 14 will be produced by an assessment of thisty-five 35 cents 15 (\$60-35) Fer ton of fertilizer sold within Montana. 16 17 Collections shall be made in accordance with procedures in 18 sections-3-4747-and-3-4724, B+G+S+-4947, 3-1717.1 and shall be collected from the <u>licensee cr</u> "registrant" of 19 20 fertilizer."

21 Section 20. Section 3-1901, R.C.N. 1947, is amended to 22 read as follows:

23 "3-19C1. Standard classes of mustard seed -- grade
24 requirements. (1) The standard classes of mustard seed for
25 the state of Montana shall be as follows:

1 <u>[a] Paney fancy--Gultivated cultivated</u> tame yellow

2 ∎ustard seed<del>v</del>i

3 (b) Glass class 1--Gultivated coltivated taxe yellow
 4 mustard seed-

5 <u>(c) Class class 2--Cultivated cultivated</u> tase brown 6 sustard seed.

7 (d) Class class 3--Coltivated cultivated tame Montana 8 oriental mustard seed-;

11 Sample----Boreinafter-defined.

12 (2) Classes 1, 2, and 3 shall contain not more than 13 five--per--cont--(5%) of other classes. Class 4 shall be any 14 mixture of cultivated tame mustard seed having an admixture 15 of other classes in excess of five-per-seat-(5%), and shall 16 be graded according to the predominating class in the 17 mixture. Sample-grade-chall-include-sustard-seed-which-dees 18 #ot-cope-withim-the-requirements-of--ang--of--the--following 19 gradesy--Hor--1--to--Hor--J--iRGlusivey--or--which--hap--any 20 objestionable-foreign-oder-of-is-seery-heatingy-hety--er--is 21 otherwise--of--distingtly--low--quality--er--costains--csall 22 inseparable-stones-or-sinders-23 (3) Grade requirements for cultivated tame mustard 24 seed-25 Based Percentage\_figures\_determined

-26-

-25-

5B 19

# SB 0019/02

	GRADE NUMBER					
	Fancy	<b></b>	1	2	3	
Sound Cultivated Mustard						
not less than	99%	98	1/2\$	97%	9	
Damaged Kernels						
Neat Damaged	c		0 <b>. 1%</b>	0.2%	c.	
Total	15	1	1/29	3 🛪	5	
Other Classes	*******					
Wild Mustard	0		0.1%	0.2%	0.	
Total	C		0.5%	2.0%	5.	
<u> </u>	ور الله و منه بالله في حداد ورا يو الله الي و الله					
Foreign Material Cther						
Foreign Material Cther Than Dockage						
-	0		0.1%	0.21	0.	
Than Dockage	0 <del>-</del> 0		0.1% 0.3%			

· ·

t	objectionable foreign oder or is sour, heating, het, or
2	is otherwise of distinctly low quality or contains
3	small inseparable stones or cinders."
4	Section 21. Section 3-1902, R.C.M. 1947, is amended to
5	read as follows:
6	"3-1902. Definitions and specifications. The following
7	definitions and specifications are bereby adopted and made
8	legal:
9	(1) <del>Damaged-Scedn</del> "Damaged seeds <u>" <del>shallbe</del> include</u>
10	all seeds and pieces of seeds of mustard seed, which are
11	completely covered with mould, very green, sprouted,
12	frosted, badly ground damaged, badly weather damaged, or
13	otherwise distinctly damaged.
1.3	orderates distinctly damages.
14	(2) <del>Roat-Damaged-Soeds</del> #Heat damaged seeds <u>#</u> <del>shallbe</del>
14	(2) <del>Heat-Damaged-Soeds-</del> "Heat damaged seeds <u>" shallbe</u>
14 15	(2) Heat-Damaged-Seeds"Heat damaged seeds" shallbe include seeds and pieces of seeds of mustard seed which have
14 15 16	(2) Heat-Damaged-Seeds"Heat damaged seeds" shallbe include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat cr as a result
14 15 16 17	(2) Heat-Damaged-Seeds"Heat damaged seeds" shallbe include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat cr as a result of heating caused by fermentaticn.
14 15 16 17 18	<ul> <li>(2) Heat-Damaged-Seeds"Heat damaged seeds" shallbe include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat cr as a result of heating caused by fermentaticn.</li> <li>(3) Deckage"Dockage" includes sand, dirt, weed</li> </ul>
14 15 16 17 18 19	<ul> <li>(2) Heat-Damaged-Seeds"Heat damaged seeds" shallbe include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat cr as a result of heating caused by fermentation.</li> <li>(3) Dockage"Dockage" includes sand, dirt, weed seeds, weed stems, chaff, straw, mustard seed other than</li> </ul>
14 15 16 17 18 19 20	<ul> <li>(2) Heat-Damaged-Seeds"Heat damaged seeds" shallbe include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat or as a result of heating caused by fermentation.</li> <li>(3) Deckage"Dockage" includes sand, dirt, weed seeds, weed stems, chaff, straw, mustard seed other than tame mustard, and any other foreign material, which can be</li> </ul>
14 15 16 17 18 19 20 21	<ul> <li>(2) Heat-Damaged-Seeds"Heat damaged seeds" shall be include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat or as a result of heating caused by fermentation.</li> <li>(3) Dockage"Dockage" includes sand, dirt, weed seeds, weed stems, chaff, straw, mustard seed other than tame mustard, and any other foreign material, which can be removed readily from the mustard by the use of appropriate</li> </ul>
14 15 16 17 18 19 20 21 21	<ul> <li>(2) Heat-Damaged-Seeds"Heat damaged seeds" shall be include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat or as a result of heating caused by fermentation.</li> <li>(3) Dockage"Dockage" includes sand, dirt, weed seeds, weed stems, chaff, straw, mustard seed other than tame mustard, and any other foreign material, which can be removed readily from the mustard by the use of appropriate sieves, cleaning devices, or other practical means suited to</li> </ul>
14 15 16 17 18 19 20 21 22 23	<ul> <li>(2) Heat-Damaged-Seeds"Heat damaged seeds" shall be include seeds and pieces of seeds of mustard seed which have been distinctly discolored by external heat or as a result of heating caused by fermentation.</li> <li>(3) Dockage"Dockage" includes sand, dirt, weed seeds, weed stems, chaff, straw, mustard seed other than take mustard, and any other foreign material, which can be removed readily from the mustard by the use of appropriate sieves, cleaning devices, or other practical means suited to separate the foreign material presenty, also Theterm_also</li> </ul>

-28-

SB 19

1 which cannot be recovered by properly rescreening or 2 recleaning. The quantity of dockage shall be calculated in terms of percentage. When less than one-half-per-cont-(1/25) 3 1/2 of 1% it shall be disregarded. The percentage of dockage a. so determined and statedy shall be added to the grade 5 6 designation. Lockage is to be calculated by-the-one-half-per 7 cont--(1/2K), in gradients of 1/2 of 1% that is to say 0% to 8 0-4% .4% will be designated as no dockage, 0-5% .5% to 0-9% 9 .9% will be designated as 4/2# 1/2 of 1% dockage, 1% to 1.4% 10 will be designated as 1% dockage, 1.5% to 1.9% will be 11 designated as 4-4/28 1.5% dockage, and so op.

12 (4) Foreign Haterial Other Than --- Boskage -- "Foreign 13 material other than dockage" shall--isslade includes all 14 matter other than tame cultivated mustard seed, which is not separated in the proper determination of dockages, hevever 15 16 However, rapeseed, common wild mustards, and other seeds 7 that blend with class 2 and class 3 mustard seed- and thus 18 are not readily identified, and the total of which is not in 19 excess of two-and-one-half-per-cent-(2-1/25), 2.55 shall not 20 be considered foreign material, and shall not be considered 21 in grading said such classes of mustard seed.

22 <u>(5)</u> Basis of the seed as a whole. All other

-29-

1 determinations shall be upon the basis of the seed when free

2 from dockage.

3 (5) (6) Percentages.-Percentages, except in the case of
 aoisture, shall be percentages ascertained by weight.

5 (6)(7) Percentages of Heisture Percentage of moisture 6 shall be that ascertained by use of the equipment and 7 procedure prescribed by the Homtawa department of 8 agriculture.

9 (7)(8) Percentage of -Dockage Percentage of dockage
10 shall be that ascertained by use of the equipment and
11 procedure prescribed by the feature department of
12 agriculture.

13 (8) (9) Test-Weight-Per-Puckel-The test weight per
14 bushel shall be the weight per Winchester hushel as
15 determined by the testing apparatus and the method of use
16 thereof described in Fulletin-1065-U.S.D.A. dated - Hay - 18,
17 1922, prescribed by the department or as determined by any
18 device and method which give equivalent results in the
19 determination of test weight per bushel.

20 (9)(10) All-Other Determinations—The Determination of 21 the percentage of damage, heat damage, sound cultivated 22 mustard seed, foreign material, and determinations of all 23 other factors not otherwise provided for shall be on the 24 basis of a portion cut from the original sample and 25 separated by hand picking."

-30-

Section 22. Section 3-1903, R.C.M. 1947, is amended to
read as follows:

3 "3-1903. Weights per bushel. (1) The-fellewing-shall be--logal Legal test weights per bushel--manely--The are the 4 5 weight per Winchester bushel as determined by the testing 6 apparatus and the sethed of use thereof described-in 7 Bullotin-1065 U.S.D.A. dated Hay 18, 1922, prescribed by the 8 department or as determined by any device and method which 9 give equivalent results in the determination of test weight 10 per bushel.

11 (2) Weight per bushel for tame yellow mustard seed
12 shall be:

13	Fano	:y
14	No.	1
15	Nc.	252 lbs.
16	Nc.	350 lbs.
17	13)	Weight per bushel for tame brown and tame Montana
18	oriental	mustard seed shall te:
19	No.	1

factors not otherwise provided for shall be on the basis of
a portion cut from the original sample and separated by hand
picking."

Section 23. Section 3-3112, B.C.M. 1947, is amended to
read as follows:

"3-3112. Orders effective until reversed or modified 6 7 by court. Until-reversed-or-modified-by-a-seart-of-consetent 8 jurisdiction as An order or rule adopted by the department, 9 including an order refusing a permit for the establishment 10 of a new aciary location, is effective until reversed or modified by a final decision, or final judgment, of a court 11 12 of competent jurisdiction, and while such action is pending, as defined in section 93-8706. An injunction or other 13 18 process or writ may not be issued by a court restraining 15 enforcement until that final determination."

Section 24. Section 3-3303, B.C.P. 1947, is amended to
read as follows:

19 "3-3303. Application for license - contents - bond
19 - expiration date - schedule of commissions and charges to
20 be filed. (1) Licenses to engage in the business of a dealer
21 at wholesale in this state shall be issued by the department
22 to reputable persons who apply for a license and pay the
23 prescribed fee.

24 (2) The application shall be in writing, accompanied
25 by the prescribed fee, and under oath. It shall state:

- 32-

SE 19

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2 the business for which the license is desired: (b) the estimated amount of business to be done 3 JA. monthly: (c) the full names of the persons constituting the 5 firm, if the applicant is a copartnership partnership: 6 7 (d) the names of the officers ef-the-corporation, and the place of incorporation, corporation if the applicant is 8 9 a corporation; and

(a) the place where the applicant intends to carry on

1

(e) a financial statement showing <u>ip a general way</u> the
value and character <del>im a general way</del> of the assets and the
amount of liabilities of the applicant.

13 (3) Before issuing a license, the department shall 14 require the applicant to file with it a bond to this the state in an amount to be fixed by the department based on 15 16 the monthly business to be transacted by the applicant. The 17 bond shall may not be for less than one-thousand-dollars -(\$1,000). The department may require, under penalty of 18 19 revoking the license, additional bond if the business 20 21 the lisense. The bond shall cover all wholesale produce business transacted in this state. The bond shall be 22 23 executed by the applicant as principal and a surety company 24 authorized to do business in this the state as surety. The form of the bond shall be fixed by the department, 25

-33-

conditioned upon:
(a) faithful performance of his duties as a dealer at wholesale;
(b) obserwance of all laws relating to the business of a dealer at wholesale;
(c) payment, when due, of the purchase price of produce purchased by him;
(d) for the prompt reporting of sales as required by law to all persons consigning produce to the dealer as licensee for sale on commission; and

(e) the prompt payment to persons entitled to the
proceeds of the sales less lawful charges, disbursements,
and commissions. The bood shall cover all wholesale - produce
buciness transacted in this state.

15 (4) All licenses expire December 31 of each year. The 16 licenser of a certified copy of the licenser shall be kept 17 posted in the office of the licensee at each place in this 18 state where he transacts business. The fee for each license 19 is one-hundred-dollars-{\$100} and for each certified ccry of 20 a license, one---dollar--- (\$1). If a truck is the place of 21 business the license tee for the first truck is one-bundred 22 dollars--{\$100} and for each additional truck fifty-dellars 23 4850+.

24 (5) The applicant shall file with the department a25 schedule of his commissions and charges for services in

-34-

connection with produce handling cn account of or as agent
 fcr another.

3 (6) A separate license is required for each place of
4 business. Each truck used for assembling and distributing
5 produce, other than from a permanently established place of
6 business through which all business of sales and accounts is
7 handled, is a separate place of business and must re
8 licensed."

9 Section 25. Section 3-3312, B.C.E. 1947, is amended to
10 read as follows:

11 \*3-3312. Violation a-sistemeaner -- penalty. A person 12 who violates this act chapter, fails to comply with rules adopted under this chapter, or fails to obey an order of the 13 14 department made under this chapter is guilty cf a 15 misdemeanor and shall be fined not less than twenty-five dollars--(\$25)-ner or more than five-hundred-dellars-(\$500), 16 17 or imprisoned in the county jail for not more than six---{6}-18 months, or both fined and imprisoned. The fine shall be paid into the state treasury and deposited as provided in section 19 20 3-3444 3-3311."

Section 26. Section 3-3402, R.C.H. 1947, is amended to
read as follows:

23 "3-3402. Grades of apples. (1) The standard grades of
 24 apples for the state of Nontana shall be: "Estra-fancy-or
 25 first-grade,"-"Pancy-or-second-grade,"-"Combination

-35-

SB 19

1 gradey#-and-#Hail-gradey#-and-#Orchard-swn-gradey#

(a) "Extra extra fancy or first grade,", which shall
consist of apples of one variety which are mature,
hand-picked, clean, well formed, sound, free from bruises,
limbrubs, spray burns, sunburn, russeting, drought spot,
hail marks, visible water core, broken skin, apple scab,
stings, and from diseases and insect injury, except that
slight blemishes shall be permitted in this grade,:

9 (b) "Fancy fancy or second grade", which shall consist
10 of apples of one variety which are mature, hand-picked,
11 clean, fairly well formed, scund, free from visible water
12 core, broken skin, and from damage caused by bruises,
13 limbrub, spray burns, sunburn, russeting, drought spot, hail
14 marks, apple scabs, diseases and insect injury-:

(c) "C" grade", <u>which</u> shall consist of apples of one
variety which are mature, hand-picked, clean, not hadly
misshapen, sound, free from broken skin and from serious
damage caused by bruises, limbrub, russeting, drought spot,
hail marks, apple scab, diseases, and insect injury, and
must have fifteen-per-centum-(15%) of color requirements
characteristic of the variety. The word "choice" must not be

22 used in connection with this grade-;

23 (d) Cull-appler "cull grade", which shall consist of
24 apples free from infection or disease or serious damage but
25 which do not meet the requirements of "extra fancy or first

-36-

SE CC19/02

grade", "fancy or second grade", or of "C" grade", and Such 1 2 apples shall be marked "culls" in block letters not less 3 than one 1 inch in height on both ends of the box: "evile". 4 (e) "Combination combination grade-", When "extra fancy or first grade" and "fancy or second grade" apples are 5 6 packed together, the boxes must be marked "combination extra 7 fancy or first grade and fancy or second grade.". This 8 combination grade must contain at least twomty-five-per 9 senter-{25%} of apples which belong to the higher grade in 10 the combination.

11 (f) "Hail hail grade", which shall meet all 12 requirements of "FFFFF extra fancy," and "Fency fancy grade" 13 except for hail marks. Such hail marks must not materially 14 deform or disfigure the fruit or affect more than cne-tenth 15 (1/10) of the surface in the aggregate where skin has not 16 been broken. Providedy -- that -- ushealed Unhealed hail marks 17 shall not be permitted and not more than an aggregate area 18 cf one-half (1/2) inch shall be allowed for well-healed hail 19 marks where the skin has been broken.

(g) "Orehard orchard-run grade", which shall consist
of apples of one variety, which are mature, hand-picked,
clean, scund, free from infection or disease or serious
damage, and must have fifteen-per-Gentum-(15%) color
requirements characteristic of the variety and shall be
marked "orchard-run grade" in block letters not less than

-37-

SB 19

one <u>1</u> inch in height on both ends of <u>the</u> box <del>"Orchard run</del>
 grade."

3 (h) (2) No apples smaller than two-and one-fourth 4 (2 1/4) inches in diameter shall be permitted in any grade. 5 Small apples which are under size requirements as prescribed 6 may be shipped if marked "small" in block letters not less 7 than one 1 inch in height on both ends of the box, provided 8 such apples are free from insect pests and diseases.

9 (i) (3) In order to provide for variations incident to
10 commercial grading and handling a telerance of tenper
11 conten-(10%) for a total of all defects from the standard of
12 the grade shall be allowed."

13 Section 27. Section 3-3501, R.C.H. 1947, is amended to
14 read as follows:

15 "3-3501. Definitions. As used in this chapter <u>the</u>
16 <u>following definitions apply</u>:

17 (1) "Cropland" means land used for the production of
18 food and forage, including the headlands, ditches, and
19 rights-cf-way adjacent to such land.

20 (2) "Cropland spraying program" means the application
21 of chemical or other substances to croplands for the purpose
22 of destroying insect pests.

23 (3) "Insect pest" includes the grasshopper, cutworm,
 24 pale western cutworm, army worm, clinch bug, and any other
 25 insect or arthropod generally recognized as a destroyer of

-38-

### SE 0019/02

# 1 grain, hay, range, and herticultural creps.

2 (3) (4) "Condition of insect rest infestation" means a
3 condition where an insect pest, as-defined-in-reaction
4 16-1153, or combination of such rests, exists in cropland in
5 such numbers and at such times as to destroy or
6 substantially damage, or threaten to destroy or
7 substantially damage, a significant part of the crop
8 production in a county.

9 (4) (5) "Department" means the department of
 10 agriculture.

11 (5) (6) "Alternative control program" means a system of
 12 controlling insect pest populations through biological or
 13 other means not involving toxic chemicals."

Section 28. Section 27-22C, R.C.H. 1947, is amended to read as follows:

#27-220. Embargo. (1) Whenever a duly authorized agent. 16 of the department of agriculture finds or has probable cause 17 18 to believe that any pesticide or devices (a)-Te is 19 adulterated or misbranded+, (b)-Bas has not been registered 20 under the provisions of section-5-[27-217]-ef-this-act; 21 (s) Fails fails to bear on its label the information 22 required by this act+, or -{d}--Is is a white powder 23 pesticide and is not colored as required under this act +, he 24 shall affix to such article a tag or other appropriate 25 marking, giving potice that-such-posticide-or-device-is,-or

1 is--suspected--of--being--adultcrated--er--tetrandedy---mot 2 registered,--fails--to--bear-the-required-information-en-the 3 labely-ic-a--shite--powder--recticide---and---not--colored--ac - 61 required, and thereof and that the article has been detained or embargoed and warning all persons not to remove or 5 6 dispose of such article by sale or otherwise until 7 permission for removal or disposal is given by such agent or 8 the court. It shall be is unlawful for any person to remove 9 or dispose of such detained or embargeed article by sale or 10 otherwise, without such permission, or to remove or alter 11 the tag or marking.

12 (2) When an article detained or embargoed under 13 section-8 subsection (1) Foundation-(1)-of--this--sectionhas been found by such agent to be in violation, if after 14 15 thirty (30) days the viclation has not been resolved, he may 16 petition the district court in whose jurisdiction the 17 article is detained or embargoed for a condemnation of such 18 article. When such agent has found that an article so detained or embargeed is not adulterated or misbranded, he 19 2C shall remove the tag or other marking.

21 (3) If the court finds that a detained or embargeed
22 article is in violation of section-8 subsection (1)
23 [subdivision-(1)-of-this-section], such article shall after
24 entry of the decree be destroyed at the expense of the
25 claimant thereof, under the supervision of such agent, and

-39-

SB 19

-40-

1 all court costs and fees and storage and other proper expenses shall be assessed against the claimant of such 2 pesticide or device or his agent+, provided that when the 3 4 adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after 5 entry of the decree and after such costs, fees, and expenses 6 have been paid and a good and sufficient bond has been 7 executed, conditioned upon the proper labeling or processing 8 9 of that such pesticide or device, shall be so labeled or 10 processed, has been executed, may by order direct that such 11 article be delivered to the claimant thereof for such 12 labeling or processing under the supervision of an agent of 13 the department of agriculture. The expense of such 14 supervision shall be paid by claimant. The article shall be returned to the claimant of the pesticide or device on the 15 16 representation to the court by the department of agriculture that the article is no lenger in violation of this act, and 17 that the expenses of such supervision have been paid." 18

19 Section 29. Section 27-232, R.C.H. 1947, is amended to
20 read as follows:

21 \*27-232. Liability. The department of agriculture
22 shall within-two-{2}-years-after-the offective-date-of-this
23 ast, annually require from each commercial pesticide
24 applicator proof of financial responsibility in amounts to
25 be determined under such rules and-regulations-as-made

-41-

1 promulgated by the department of agriculture.\*

2 Section 30. Section 27-237, R.C.E. 1947, is amended to
3 read as follows:

а #27-237. Judicial review. (1) May person adversely affected by the rulesy--regulations, or orders of the 5 department of agriculture may obtain judicial review thereof 6 7 by filing in the district court within thirty-(30) days 8 after entry of such rule or order- a petition traving that 9 10 part. A copy of the petitics shall be forthwith immediately transmitted by the clerk of the court to the department of 11 12 agriculture, and thereupon the department of agriculture 13 shall file in court the record of the proceeding on which it 14 based the order.

15 (2) The court shall have jurisdiction on to affirm or 16 set aside the order complained of in whole or in part. The 17 finding of the department of agriculture with respect to 18 question questions of fact shall be sustained if supported 19 by substantial evidence when considered on the record as a 20 whole.

21 (3) Upon application, the court may remand the matter 22 to the department of agriculture to take further testimony 23 if there are reasonable grounds for the failure to produce 24 the evidence in the prior hearing. The department of 25 agriculture may modify its finding and its order by reason

-42-

SE 19

cf the additional record and must file any modification of
 the findings or order with the clerk of the court."

3 Section 31. Section 82-1502, F.C.E. 1947, is amended
4 to read as follows:

5 #82-1502. Mariaus insurance. When the reserve fund is determined actuarilly scund, as provided in section 82-1507, 6 7 the board way write not more than twenty-four-dellars--{\$24} insurance on each acre of grain- which is on nonirrigated я 9 land, and not more than forty-oight dollars (\$48) per acre 10 on irrigated land. When acre than one party desires hail 11 insurance on the same crop, each party shall be is entitled 12 to the share of the maximum provided per acre as represented 13 by his interest in the crop. Either party may insure his share in the crop for any amount up to and including the 14 15 waximum per acre if the cthers waive their right to insure." 16 Section 32. Section 82-1506, R.C.E. 1947, is amended 17 to read as follows:

18 #82-1506. Tax for hail insurance -- limitation on levy -- liens, effect of -- scrtgages -- levies, when payable --19 20 hail insurance districts -- rates. (1) A tax is hereby 21 authorized and directed to be levied on all lands in this 22 state growing crops subject to injury or destruction by 23 hail, the cwners of which have elected to become subject to 24 the provisions of this act. The state board of hail 25 insurance shall annually estimate, accurately as mean any state

be possible, the amount required to pay all losses, interest 1 on warrants, and costs of administration, and shall 2 recommend a levy to be made on each kind of land 3 respectively, subject to the provisions of this act, to the a 5 state department of revenue. The rates recommended to apply on the lands of cwners shall be applied in the same 6 7 proportions to the crcps cf these insured on a personal assessment basis. It is hereby provided, however, that such 8 tar shall may not exceed in any one (4) year the our of -- two 9 10 dollars--and--forty--conts-(\$2.40) per acre on lands scwn tc grain crors on monirrigated lands, and-the-sum-of-four 11 dollars--and---cighty--sents---(\$4.80) Fer acre on irrigated 12 lands, also it-shall-pot-exceed or two--dellars--and--forty 13 eests--{\$2.40} per acre on lands producing hay cropst. and 14 provided further, that if If the tax required to ray the 15 estimated lcsses, interest on warrants, and costs of 16 administration be is less than one-dollar-and--twosty--conte 17 -{\$1.2C} per acre on lands sown to grain crops on 16 nonirrigated lands and two-dellars-and forty--oceta---{\$2.40} 19 20 per acre on irrigated lands, and a proportionate ascurt cn lands sown to hay crops, the said board of hail insurance 21 must recommend a tax levy sufficient to raise the full 22 23 ancunt thereof.

24 (2) In addition to the lien created above in
25 <u>subsection (3)</u> on the land of the insured, the levy for such

-44-

-43-

SB 19

SB 19

hail insurance shall also constitute a lien on the crops 1 2 insured with the exception that the said crop lien shall may 3 not apply to owners of unencumbered land, or en to the land 4 or crops of those who pay cash for hail insurance. The 5 applications of these shall persons may not be filed with the county clerk and recorded as provided for in <del>section</del> б 82-1503. The crop lien mentioned-above shall be included in 7 all applications for hail insurance, with the above 8 exceptions, and shall be enforced, as provided in sections 9 10 82-1509 and 82-1510- against all insured, except those cwning unencumbered land or those who have paid cash for 11 12 hail insurance.

13 (3) The state department of revenue is---hereby empowered-and-it-is-sade-its duty-to shall prescribe such 14 levies annually to be made against lands growing crops 15 16 subject to injury or destruction by hail which are subject 7 to this act, in accordance with the recommendation of the 18 state board of hail insurance. Such tax levies respectively 19 shall-be are chargeable to the lands of each taxpayer who shall--elect elects to become subject to this act and shall 20 21 be extended on the tax roll and collected by the officers 22 charged with such duties in the manner and form as are other property taxes and if not raid shall be a lien on the lands 23 against which the same are levied as are other property 24 taxes. Provided, --- however, -- that -- the lies ac-provided 25

-45-

1 above-shall may in no way affect mortgages that are of 2 record at the time of the arrroval of this act. The lien of 3 any mortgage filed subsequent to the passage and approval of 4 this act shall be subsequent to any lien for hall insurance 5 hereafter levied thereon. All applicants securing hail 6 insurance on crop liens as heretofore provided shall be 7 subject to the same charges per acre as provided herein to be made on land. Notice of such assessment shall be mailed 8 to each person insured, by the county treasurer in the same 9 manner as are all other notices of taxes due. faid The 10 assessment shall be payable at the office of the county 11 12 treasurers treasurer of each respective county. All 13 insurance levies, whether levied against land or in the form of special assessments secured by crop liens, shall be 14 15 payable in fully and not in semiannual payments, on or 16 before November 30th 30 cf each year in which such levies 17 are made.

18 (4) The state board of hail insurance may, when they 19 deem it considers it advisable, establish as many districts as it deems considers advisable and may maintain maximum 20 21 rates in various parts of the state which rates shall be 22 commensurate with the risk incurred as nearly as they it can determine from past experiences or from any records 23 24 available. The highest of these rates shall be the same as 25 the maximum established herein and the lowest shall may not

-46-

be less than one-dollar-and-twenty-conto-(\$1.20) per acre on
 lands sown to grain crops, and a proportionate amount on
 lands sown to hay crops.

(5) Notice of the various rates established for any 4 5 year shall be plainly printed on the application for hall 6 insurance, and in any year when the requirements of the bail 7 insurance law as herein provided do not require a levy of 8 the maximum rates as established, then the rates for the year shall be determined and levied by the state board of 9 hail insurance for each of the various districts as 10 established, in such proportions as will in their its 11 judgment be fair and equitable." 12

13 Section 33. Section 82-1517, R.C.H. 1947, is amended
14 to read as follows:

15 #82-1517. Payment of losses. (1) The state board of hail insurance shall, as soon as practicable after the loss 16 has been sustained, arrange for the payment of the losces-as 17 18 follows loss in the following manner. From the amount of the loss as adjusted for each claimant, the state loard of 19 hail-insurance shall deduct the amount the claimant then 20 owes as delinquent hail insurance tax and the maximum amount 21 assessed as hail insurance tax for the current year, and 22 23 shall make settlement within forty (40) days from the time loss is sustained in--the-following-managers-By by paying, 24 either by registered warrant cr ctherwise if funds are 25

-47-

SB 19

immediately available, fifty-per-sent 50% of the total loss
as agreed on upon, lessy--howevery the maximum rate of
assessmentty. The balance to shall be raid at the expiration
of the bail season.

(2) The state board of hail -- inserance shally on or 5 before November first, 1 order payment for the amount so 6 7 deducted, which payment shall be remitted to the county treasurer of the county in which the tax was assessed. The R state board of hail issurance shall then order payment for 9 10 the balance of the adjustment which payment shall to be sent to the claimant, provided, however, that in mc case shall 11 may the payment for loss exceed aweaty-fear-dellars-(\$24) 12 per acre for grain crops on ponirrigated lands, and 13 forty-eight-dollars (\$48) per acre on irrigated lands, and 10 15 crops+, provided, further, that as is claimant shall may 16 receive payment for any loss incurred where said the loss 17 does not equal or exceed <del>five-per-sent--(</del>5**%)** of the total 18 value of the crop insured. Also if the losses in any year 19 should exceed the current levy plus the reserve, if any, 20 then the payment of all losses shall be prorated share and 21 share alike among all grain growers having loss claims 22 adjusted and approved, and the unpaid falance of said the 23 lesses shall be raid out of the reserve without interest in 24 such order as the state board of-hall-incurance-shall-direct 25

-48-

SE CC19/02

SB 19

1 directs, when in the judgment of the said board there are 2 sufficient moneys to provide for the payment of the same and other items payable cut of said the reserve. In any year Э 51 the state board of--hail--issurance may by resclution 5 authorize its chairman and secretary to borrow as needed 6 from any person, bank, or corporation such sum or sums of 7 noney as the state board may deem consider necessary to 8 sagev-on-the-business-of-the-department-and for the surrese 9 of paying all warrants as issued.

(3) For any scneys borrowed under the provisions of 10 11 this act. the state board sf-hail-issurance shall cause 12 warrants to be drawn, and-said The warrants shall bear 13 interest at not to exceed six-per-coat-(6%) per-appus a year 14 and gaid the warrants and the interest thereon shall be paid out of funds from the state hail insurance department 15 16 program as they are collected from the various counties in the state. The state board of-hail-insurance-shall may not 17 18 at any time borrow a total sum greater than the amount of 19 levies as made for taxes for the current year together with 20 such delinquent taxes as remain unpaid on the books of the 21 county treasurer."

22 Section 34. Section 82-1519, R.C.M. 1947, is amended
23 to read as follows:

24 "82-1519. Compensation of chairsar and officers - 25 report. It-shall-be-the--duty--of--all--public--officers--te

-49-

1 acty-without-other-compensation-than-that-allowed--by--law-2 3 (1) The chairean appointed members of the state board of 21 5 be---spesified---by---the---legislative---assesbly---is--the 6 appropriation--to--the--board--of--hail--incurance--and--all 7 appointed -- officers-- and -- employees -- under-this-act-shall-be 8 allowed-the-per-diem-and-silcage-allowed-state--esployees a per diem of \$25 for each day they are engaged in the 9 10 transaction of official business. The ... compensation -- of -- all --- appointed --- officers -- - and 11 12 eployees--of-the-board-ohall-be-fixed-by-the-state-board-of 13 hail-incerance. If-the-legislative-asseebly-does-not-specify 14 the-maximus-salary-for-the-head-of-the--ageneyy---the--calary 15 shall--be--fixed--by-the-state-toard-of-bail-insurance-after 16 approval-by-the-beard-of--examinersy--Sefere--approving--any 17 salary--increasey--the--board--of-essiners-shall-retiev-the 18 19 governmenty-other-states,-and-private-industry.

20 The-Ghairman-of-the-state-board-of-hail-issurance-shall

21 report-ac-provided-in-section-2-[82-4662]-of-this-act.

-50-

- 22 <u>(2) All\_toard\_members and employees shall be allowed</u>
- 23 expenses as provided in 59-538, 59-539, and 59-801.
- 24
   (3)\_All\_other\_public\_officials\_specified\_in\_this

   25
   chapter\_shall\_perform the duties\_relative\_to\_hail\_insurance

SP 0019/02

1 without other compensation than that allowed by law."

2 Section 35. Repealer. Sections 3-2601 through 3-2606,

3 R.C.H. 1947, are repealed.

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