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1	lente BILL NO. 124
	INTRODUCED BY Ladeum
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3	BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
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5	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE PESTICIDE
6	LAW RELATING TO DEFINITIONS; REGISTRATION AND EMBARGO OF
7	PRODUCTS: LICENSING OF APPLICATORS, DEALERS, AND RETAILERS;
8	CERTIFICATION OF FARM APPLICATORS; REVOCATION OF LICENSES
9	AND PERMITS; RULE MAKING AND ADMINISTRATIVE PROCEDURES;
10	ADVISORY COUNCIL; AGENCY COOPERATION; EMFORCEMENT AND
11	VIOLATIONS: AMENDING SECTIONS 27-216, 27-217, 27-220,
12	27-221, 27-222, 27-225, 27-227, 27-228, 27-230, 27-231,
13	27-232, 27-234, 27-235, 27-240, 27-242, 27-243, AND 27-245,
14	R.C.M. 1947; REPEALING SECTIONS 27-236, 27-237, AND 27-238,
15	R.C.M. 1947: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.
16	
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18	Section 1. Section 27-216, R.C.f. 1947, is amended to
19	read as follows:
20	"27-216. Definitions. Unless the context requires
21	otherwise, in this act:
2 2	(1) "Active ingredient" means:
23	(a) $\pm n$ in the case of a pesticide other than a plant
24	regulator, defoliant, or desiccant, an ingredient which will
25	prevent, destroy, repel, alter life processes, or mitigate

insects, nematodes, fungi, rodents, weeds, or other pests-;
(b) In in the case of a plant regulator, an ingredient
which acts upon the physiology to accelerate or retard the
rate of growth or rate of maturation or otherwise alter the
normal processes of ornamental or crop plants or their
produce+;

- 7 (c) Is in the case of a defoliant, an ingredient which 8 will cause the leaves or foliage to drop from a plant:
 - (d) In in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.
- 11 (2) "Adulterated" applies to a pesticide if its
 12 strength of purity falls below the professed standard or
 13 quality as expressed on labeling or under which it is sold,
 14 or if any substance has been substituted wholly or in part
 15 for the pesticide, or if any valuable constituent of the
 16 pesticide has been wholly or in part abstracted.
 - (3) "Antidote" means the most practical immediate treatment in case of poisoning and includes first—aid first—aid treatment.
- 20 (4) "Applicator" means a person who applies pesticides
 21 by any method.
- 22 (5) "Commercial applicator" means a person who by 23 contract or for hire applies by aerial, ground, or hand 24 equipment pesticides to land, plants, seed, animals, waters, 25 structures, or vehicles.

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- 1 (6) "Commercial operator" means a person who applies 2 pesticides under the supervision of a commercial applicator.
- 3 (7) "Farm applicator" means a person applying pesticides to his own crops or land.
- 5 (8) "Public utility applicator" means a person applying pesticides to land and structures owned or leased 6 7 by a public utility.
- (9) "Beneficial insects" means those insects which, in the course of their life cycle, carry, transmit, or spread 9 10 pollen to and from vegetation, act as parasites and predators on other insects, or are otherwise beneficial. 11
- 12 (10) "Crop" means a food intended for human or animal consumption or a fiber product.

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- (11) "Dealer" means a person who sells, wholesales, 15 offers, or exposes for sale, exchanges, barters, or gives away within this state any pesticide except those pesticides 17 which are to be used for home, yard, garden, home orchard, 18 shade trees, ornamental trees, tushes, and lawn.
 - (12) "Defoliant" means a substance or mixture of substances for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- 22 (13) "Desiccant" Beans a substance or mixture of 23 substances for artificially accelerating the drying of plant 24 tissue.
- 25 (14) "Device" means any instrument or contrivance

- intended for destroying, controlling, repelling, or
- 2 mitigating pests but not equipment used for the application
- of pesticides.
- (15) "Environment" means the soil, air, water, plants, and animals.
- (16) "Equipment" means equipment used in the actual
- 7 application of pesticides, including aircraft, ground
- sprayers and dusters, hand-held applicators, and water
- 9 surface equipment.
- 10 (17) "Fungi" neans all nonchlorophyll-bearing
- 11 thallophytes (all nonchlorophyll-bearing plants of a lower
- 12 order than mosses and liverworts) as, for example, rusts,
- smuts, mildews, molds, yeasts, and bacteria, except those 13
- 14 resident on or in living man or other animals.
- 15 (18) "Fungicide" means a substance or mixture of
- substances for preventing, destroying, repelling, or 16
- 17 mitigating any fungus.
- 18 (19) "Herbicide" means a substance or mixture of
- 19 substances for preventing, destroying, repelling, or
- 20 mitigating any weed.
- 21 (20) "Inert ingredient" means an ingredient which is
- 22 not an active ingredient.
- 23 (21) "Ingredient statement" means either:
- 24 (a) A a statement of the chemical name and common name
- 25 and percentage of each active ingredient, together with the

- total percentage of the inert ingredients, in the pesticide; 2 OI
- 3 (b) A a statement of the chemical name and common name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any, in 5 the pesticide. However, subsection (21) (a) of this section 6 applies if the preparation is highly toxic to man, 7 determined as provided in section 27-234, and if the pesticide contains arsenic in any form, the ingredient statement shall also include a statement of the percentage 10 11 of total and water-soluble arsenic, each calculated as 12 elemental arsenic.

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- (22) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously sequented, for the most part belonging to the class insecta, comprising six-legged, winged and wingless forms, such as beetles, bugs, wasps, flies, and keds, and to other classes of anthropods whose members are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood lice,
- 21 (23) "Insecticide" means any substance or mixture of 22 substances for preventing, destroying, repelling, or 23 mitigating any insects present in any environment.
- 24 (24) "Label" means the written, printed, or graphic 25 matter on or attached to the pesticide or device, or to its

- immediate container, and any outside container or wrapper of 2 any retail package of the pesticide or device.
- 3 (25) "Labeling" means all labels and other written, а printed, or graphic matter:
- 5 (a) Upon upon the pesticide or device or any of its containers or wrappers;
- 7 (b) Accompanying accompanying the pesticide or device 8 at any time:
- 9 (c) To to which reference is made on the label or in 10 literature accompanying the pesticide or device, except when 11 accurate, nonmisleading reference is made to current 12 official publications of the United States environmental 13 protection agency; departments of agriculture, interior, or 14 health, education, and welfarey; state experiment stationsy; 15 state agricultural colleges; or other similar federal 16 institutions or official agencies of this state cr other 17 states authorized by law to conduct research in the field of 18 pesticides.
 - (26) "Misbranded" aprlies:

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- 20 (a) to a pesticide or device if its labeling bears 21 any statement, design, or graphic representation relative to its ingredients which is false or misleading. 22
 - (b) To to a pesticide if:
- (i) It it is an imitation of or is offered for sale 24 25 under the name of another pesticide:

1 (ii) Its its labeling bears any reference to 2 registration under this act:

- 3 (iii) The the labeling accompanying it does not contain instructions for use necessary and, if complied with. 4 5 adequate for the protection of the public;
- 6 (iv) The the label does not contain a warning or 7 caution statement necessary and, if complied with, adequate to prevent injury to living man or undue hazard to the 8 9 environment:

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- (v) The the label of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement on that part of the immediate container and on the outside or on a wrapper through which the ingredient statement on the immediate container cannot be clearly read:
- (vi) any word, statement, or other information required to appear on the labeling is not prominently placed on the labeling with a conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms rendering it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- 23 (vii) In in the case of an insecticide, nematocide, 24 fungicide, or herbicide, when used as directed or in 25 accordance with commonly recognized practice, it is

- injurious to living men or other vertebrate animals or
- vegetation, except weeds, to which it is applied, or to the 2
- 3 person applying the pesticide:

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- 4 (viii) In the case of a plant regulator, defoliant,
- or desiccant, when used as directed, it is injurious to man
- or other wertebrate animals or wegetation to which it is
- 7 applied, or to the person applying the pesticide. Physical

or physiological effects on plants or parts of plants are

regulator, defoliant, or desiccant is applied in accordance

- not injurious when this is the purpose for which the plant
- 11 with the label claims and recommendations.
- 12 (27) "Nematocide" means any substance or mixture of 13 substances intended for preventing, destroying, repelling,
- 14 or mitigating nematodes.
- 15 (28) "Nematodes,", "nemas,", or "eelworms" means
 - invertebrate animals of the phylum nemathelminthes and class
- 17 nematoda, that is, unsequented round worms with elongated,
- fusiform, or sac-like bodies covered with cuticle, and
 - inhabiting soil, water, animals, plants, or plant parts.
- 20 (29) "Person" means any natural person, individual,
- firm, partnership, association, corporation, company, 21
- 22 joint-stock association, body politic, or organized group of
 - persons whether incorporated or not, and any trustee,
- receiver, assignee, or similar representative.
- 25 (30) "Pest" includes any insect, redent, nematode,

- snail, slug, weed, and any form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered a pest or which the department declares a pest.
 - (31) "Pesticide" means any:
- (a) Substance substance or mixture of substances, including any living organism or any product derived from a 8 living organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, 10 and other forms of plant or animal life or viruses, except 11 12 viruses on or in living man or other animals, that way 13 infect, or be detrimental to persons, vegetation, crops, 14 animals, structures, or households or be present in any 15 environment or which the department declares a pest:
- 16 (b) Substance substance or mixture of substances

 17 intended for use as a plant regulator, defoliant, or

 18 desiccant: and,
- 19 (c) Other other substances intended for that use named
 20 by the department by a rule adopted by it.
- 21 (32) "Plant regulator" means any substance or mixture
 22 of substances affecting the rate of growth or rate of
 23 maturation or for otherwise altering physiological condition
 24 of plants, but does not include substances to the extent
 25 that they are intended as plant nutrients, trace elements,

- 1 nutritional chemicals, plant inoculants, and soil 2 amendments.
- 3 (33) "Registrant" means the person registering any
 4 pesticide or device under the provisions of this act.
- for means any pesticide, and cautions to persons, beneficial insects, animals, crops, or the environment other than the pests it is intended to prevent, destroy, control, or mitigate.
- 13 (35) "Retailer" means any person who sells, offers, or
 14 exposes for sale, exchanges, barters, or gives away within
 15 this state any pesticide for home, yard, lawn, and garden
 16 use, in quantities or concentrations as determined by the
 17 department of agriculture.
- 18 (36) "Weed" means any plant or part of the plant which
 19 grows where not wanted."
- 20 Section 2. Section 27-217, R.C.M. 1947, is amended to 21 read as follows:
- 22 **27-217. Registration. (1) Every pesticide 23 distributed, sold, or offered for sale within this state or 24 delivered for transportation or transported in intrastate 25 commerce or between points within this state, shall be

- registered with the department of agriculture. The registration shall be renewed annually by the manufacturer.

 For formulator, or distributor of the pesticide. The department of agriculture shall register all approved pesticides and those registered are subject to registration fees and all other provisions of this act. All registrations of pesticides expire on December 31 following the date of issuance, unless otherwise terminated.
- 9 (2) The applicant for registration shall file with the 10 department of agriculture a statement including:

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- (a) The the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the registrant;
- (b) ** a complete copy of the label of the pesticide, the United States environmental protection agency registration number, if the pesticide is so registered, and a statement of all claims to be made for it, including directions for use:
 - (c) The the trade and chemical name of the pesticide:
- (d) If if requested by the department of agriculture, a full description of tests made and the results upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last

- reregistered.
- 2 (3) Any pesticide imported into this state, which is 3 subject to the provisions of any federal act providing for the registration of pesticides and which has been registered 5 under the provisions of a federal act, shall be registered in the state. However, the state may restrict the use and 7 application of the pesticide by type of applicator, time, and place and way establish special registrations of 9 pesticides as outlined in subsection (9) (8) of this section 10 and section 27-234(3). The annual registration fee must also be paid, and registration information required by the 11 12 department of agriculture must be provided.
- 13 (4) The applicant shall pay an annual fee of ten

 14 dellars—(\$10) for each pesticide registered. A registration

 15 fee is not required to register an experimental use permit.

 16 Fees collected shall be deposited in the state treasury to

 17 the credit of the general fund.
- (5) The department of agriculture may require the 18 19 submission of the complete formula and certified analytical 20 standards of any pesticide. If it appears to the department 21 of agriculture that the composition of the article warrants 22 the proposed claims for it and if the article and its 23 labeling and other material required to be submitted comply with the requirements of section 27-218, it shall register 24 25 the article.

(6) If it does not appear to the department of agriculture that the article warrants the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with this chapter. it shall notify the applicant of the manner in which the articles, labeling, or other material required to be submitted fails to comply with the act so as to afford the applicant an opportunity to make the necessary corrections. If upon-receipt-of-the-notice, the applicant door not make the corrections the applicant does not make the corrections upon receipt of the notice, the department of agriculture way refuse to register the article. The department of agriculture in accordance with the procedures specified by the department of agriculture, may suspend or cancel the registration of a pesticide whenever it does not appear that the article or its labeling comply with this act. When an application for registration is refused or the department of agriculture proposes to suspend or cancel a registration, the registrant may appeal to the department of agriculture department's as provided for in-section 27-236 decision.

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47) -- The-department-of-agriculture--shall--region--all registered posticides at least every-two-(2) - vease-

(8) (7) Registration is not required in the case of a pesticide shipped from one plant in this state to another plant in this state by the same person.

(9) (a) The departments of health and environmental 2 sciences, agriculture, and fish and game shall review all 3 applications for registration of a-pesticide--er--device submitted to the department of agriculture an experimental use permit, a registration for special local needs, or 5 6 registration of a device. The departments shall utilize the 7 same requirements and standards for reviewing registrations 8 as established by the Federal Insecticide, Fungicide, and 9 Rodenticide Act, as amended, and regulations adopted 10 thereunder. The department of agriculture shall provide the 11 departments of health and environmental sciences and fish 12 and game with a complete copy of the application, related 13 correspondence, and a statement of the department of 14 agriculture's proposed action on the application. The 15 departments of health and environmental sciences and fish 16 and game shall approve or disapprove the application within 17 three-(3) 10 days after the receipt of the application. If 18 the departments of health and environmental sciences, 19 agriculture, and fish and game are in agreement with the 20 proposed registration, the department of agriculture shall 21 proceed with its issue the registration.

22 (b) The department of agriculture shall establish a 23 time and place for an interagency conference for the purposes of resolving the registration of any pesticide or 25 device. If two 42+ of the departments approve the proposed

registration, the department of agriculture shall proceed
with issue the registration.

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- (c) The registrant applying for registration shall be notified as to proposed changes in registration. If the departments cannot resolve the proposed registration following the interagency conference, the registrant may request a joint administrative hearing before the departments of agriculture, health and environmental sciences, and fish and game.
- (d) Following the interagency conference, and if requested, the administrative hearing, if the proposed registration of a pesticide or device has not been resolved, the department of agriculture shall appoint an advisory council as outlined in section 27-240 to resolve by majority vote the registration of any pesticide. The advisory council's recommendations on the registration shall be accepted by the departments and implemented by the department of agriculture."
- 19 Section 3. Section 27-220, R.C.M. 1947, is amended to 20 read as follows:
- 27 "27-220. Embargo. (1) Whenever a duly authorized agent
 22 of the department of agriculture finds or has probable cause
 23 to believe that any pesticide or device+
- 24 (a) Is is adulterated or misbranded+.
- 25 the Has has not been registered under the provisions

of section-5-[27-217-16] of this act+.

2 (c) Fails fails to bear on its label the information
3 required by this act+.

4d -- Is is a white powder pesticide and is not colored as required under this act+, he shall affix to such article a tag or other appropriate marking, giving notice that -- such posticide or device is, or is suspected of being adulterated 7 or-misbranded, mot registered, fails to bear the required information on the label, is a white powder posticide -- and act - colored - as required, and thereof and that such article 10 11 has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise 12 13 until permission for removal or discosal is given by such agent or the court. It chall be is unlawful for any person 14 to remove or dispose of such detained or embargoed article 15 by sale or otherwise, without such permission, or to remove 16 or alter the tag or marking. 17

shall remove the tag or other marking.

(3) If the court finds that a detained or embarqued 2 article is in violation of section 8-(4)-[sebdivision-(1)-of this section; the act or rules adopted thereunder, such article shall after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees and storage and other proper expenses shall be assessed against the claimant 9 of such pesticide or device or his agent; provided that when 10 the adulteration or misbranding can be corrected by proper 11 labeling or processing of the article, the court, after 12 entry of the decree and after such costs, fees, and expenses 13 have been paid and a good and sufficient bond has been 14 executed. conditioned that upon the proper labeling or 15 processing of such pesticide or device shall be -se -labeled 16 or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such 17 18 labeling or processing under the supervision of an agent of 19 the department of agriculture. The expense of such supervision shall be paid by claimant. The article shall be 20 21 returned to the claimant of the pesticide or device on the 22 representation to the court by the department of agriculture that the article is no longer in violation of this act, and 23 that the expenses of such supervision have been paid." 24

1 read as follows:

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2 "27-221. Commercial applicator. (1) It shall be 3 unlawful for any person to engage in the business of applying pesticides for another without a pesticide 5 applicator's license obtained from the department of agriculture. The application shall be accompanied by a fee of ten-dellars (\$10). Applicators applying for a dealer er retailer license under this act shall be required to pay only a five dollar (\$5) licensing fee for the dealer or 10 retailer license. The provisions of this section shall not 11 apply to any person employed only to operate any equipment 12 used for the application of any pesticide, and in which the 13 person has no financial interest or other control over such 14 apparatus other than its day-to-day mechanical operation for 15 the purpose of applying any pesticide.

- (2) Public utility applicators shall be licensed in the same manner as commercial applicators, provided that public utility operators working under public utility applicators are not required to be licensed, except as provided for under section 27-223.
- 21 (3) Veterinarians licensed as provided in section
 22 66-2204 shall not be required to be licensed to apply
 23 nonrestricted pesticides, provided that these veterinarians
 24 shall register with the department of agriculture each year;
 25 provided further that the veterinarians shall be required to

Section 4. Section 27-221, R.C.M. 1947, is amended to

- meet all other requirements and regulations rules of the 2 Montana Pesticides Act. The department when-adopting 3 regulations -- shall -- consider -- the -- professional - licensing requirements for veterinarians shall consider the а 5 professional licensing requirements for veterinarians when 6 adopting rules."
- 7 Section 5. Section 27-222, R.C.E. 1947, is amended to read as follows:
- 9 "27-222. Application for applicator's license. (1) application for a pesticide applicator's license provided 10 for in section 27-221 shall be made annually, to the department of agriculture before applying pesticides in any 13 calendar year - from the department of agriculture. Provided that pesticide applicators applying for renewal of license shall do so on or before April 1 of that calendar year. Any applicator applying for renewal of license after April 1 shall be assessed a \$10 late licensing fee.

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- (2) If the application is made for a license to engage in aerial application of pesticides, the applicant shall first meet all of the requirements of the federal aviation agency and the department of community affairs to operate the equipment described in the application. "
- 23 Section 6. Section 27-225, B.C.B. 1947, is asended to read as follows: 24
- 25 *27-225. Dealers. (1) It is unlawful for a dealer to

- 1 sell, deliver, or have delivered within this state any pesticide without first procuring a license from the 3 department of agriculture for each calendar year or portion thereof. A separate dealer's license and fee shall be required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide fieldmen or salesmen, employed directly out of the same location or outlet and under a licensed dealer, shall 9 not be required to obtain a license.
- 10 (2) The dealer shall furnish the department of 11 agriculture the names and addresses of its fieldmen and 12 salesmen selling pesticides within the state. The 13 application for a license shall be accompanied by a fee of 14 tea dellars (\$10). Dealers applying for renewal of license 15 shall do so on or before April 1 of that calendar year. Any 16 dealer applying for renewal of license after April 1 shall 17 be assessed a \$10 late licensing fee.
- 18 (3) The dealer shall require the purchaser of any restricted pesticide to exhibit their his license or permit 19 20 issued under authority of this act before completing a sale.
- 21 (4) Licensed dealers shall-not be required to obtain a 22 rotail-noncommercial-license-or-pay-the-feet-howevery--all 23 other-provisions of section-15-[27-227] shall apply. Dealers may make one application for two annual licenses if the application is accompanied by a \$10 licensing fee for each

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year of the state biennium.

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2 (5) Pharmacists and veterinarians, licensed as provided for in sestion 66-1506, 66-1507, and sestion 66-2204, and certified pharmacies licensed under section 66-1508(b). shall not be required to be licensed to sell pesticides, provided that the certified pharmacies and veterinarians shall register with the department of 7 agriculture each year. However, the certified pharmacies and veterinarians shall be required to meet all other requirements concerning the commercial sale of pesticides. 10 The department when adopting requirtiens shall take into 11 account the professional licensing requirements of 12 pharmacists, certified pharmacies, and veterinarians when 13 14 adopting rules."

15 Section 7. Section 27-227, R.C.H. 1947, is amended to 16 read as follows:

The department of agriculture is authorized to designate the pesticides that may be sold in this state at retail for home, yard, garden, and lawn use. Only pesticides so designated may be sold at retail. The department of agriculture may also limit the retail sale of such designated pesticides to quantities up to a specific number of pound(s) pounds or gallen(s) gallens and of such concentrations as would be sublethal to humans and animals

inhaled, sprayed, or dusted on the skip. 3 42) - Fach posticido retail outlet shall be required to obtain--an-annual-license-from the department of agriculture for-purchaging---and---golling---rotail---postigides-----The application for a license chall-be accompanied by a minimum 7 fee of ten dollars (\$10), provided, that rotailers solling only-bear-incost repollents-chall-only-be-required-to-pay-a licensing for of five dollars (\$5)." 10 Section 8. Section 27-228, R.C.H. 1947, is amended to 11 read as follows: 12 *27-228. Farm applicators. (1) The department of 13 agriculture - shall -- octablish -- which -- are -- restricted -- use 14 pocticides for agricultural uco. Posticides co restricted 15 cannot be utilized by the farm applicator on consercial 16 crops, land, or livestock, except as provided in (2) - below. 17 Farm applicators shall be required to obtain a certificate 18 or special use permit prior to purchasing and using any pesticide designated by the department as a restricted use 19 20 pesticide. The certificate, to be issued for 5 calendar 21 years, aust be renewed annually by the department or its authorized representative. The 5-year certification period 22 23 shall commence on January 1, 1978, Provided that the time period from October 21, 1977, through December 31, 1977, 24

small amounts thereof were accidentally swallowed,

shall be considered as part of the January 1, 1978, 5-year

1	certification period.
2	(2) Fars applicators desiring to apply restricted use
3	posticides-on-commercial-crops, land, or livestock may
¢	obtain an annual special use permit from the department of
5	agriculture. The department of agriculture chall require the
6	applicant-to-show upon-ucitten-examination-that-he-possesses
7	adequateknowledge-to-use-and-apply-restricted-agricultural
8	posticides and the justification for their use on commercial
9	crops, land or livestock. Restricted pesticides may not be
10	utilized by farm applicators or their employees except for
11	the purpose of producing or protecting any agricultural

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(3) Farm applicators shall qualify for the certificate or permit by either passing a written examination or attending a training course approved by the department with or without an ungraded quiz. The examination or course shall include practical knowledge as the ability to:

commodity on property owned, leased, or rented, or as

provided in (6) of this section.

- 19 <u>(a) recognize common pests to be controlled and damage</u>
 20 <u>caused by them:</u>
- 21 (b) read and understand the label and labeling
 22 information including the common name of the pesticide(s)
 23 applied; pest(s) to be controlled; timing and methods of
 24 application; safety precautions; any preharvest or reentry
 25 restrictions; and any specific disposal procedures.

1 (c) apply pesticides in accordance with label
2 instructions and warnings, including the ability to prepare
3 the proper concentration of pesticides to be used under
4 particular circumstances taking into account such factors as
5 area to be covered, speed at which application equipment
6 will be driven, and the quantity dispersed in a given period
7 of operation:

6 (d) recognize local environmental situations that must
9 be considered during application to avoid contamination; and
10 (e) recognize poisoning symptoms and procedures to

follow in case of a pesticide accident.

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14) The department may require farm applicators to
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14 tend a mandatory training session and pass a written
14 examination for those restricted pesticides which are
15 extremely toxic or for which an effective antidote is not
16 available. The department may require farm applicators
17 handling these pesticides to maintain use records.

19 <u>disabilities</u> may become certified to use up to two
20 <u>restricted use pesticides by passing a specific oral</u>
21 <u>examination on the particular pesticide(s) if the arrlicator</u>

(5) Farm applicators having verified reading

22 documents that a certified applicator in the immediate

23 vicinity can advise him.

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24 <u>(6)</u> Provisions of this act relating to licensing of 25 farm applicators shall not apply to any farm applicator IC 0457/01 Ic 0457/01

1 applying nonrestricted pesticides on his own land, or on 2 lands of his neighbor's: PROVIDED, provided that he:

- 3 (a) He operates farm property and operates and 4 maintains pesticide application equipment primarily for his 5 cwn usew:
- 6 (b) He is not regularly engaged in the business of
 7 applying pesticides for hire and that he does not publicly
 8 hold himself out as a pesticide applicator.
- 9 (c) He operates his pesticide application equipment
 10 only in the vicinity of his own property and for the
 11 accommodation of his immediate neighbors.**
- 12 Section 9. Section 27-230, R.C.H. 1947, is amended to 13 read as follows:
- "27-230. Revocation of licenses and permits. [1] The 14 15 department of agriculture shall establish the policy and 16 procedures on the revocation of licenses or permits. The 17 department of agriculture may refuse to grant, renew, or may 18 revoke a license or permit, as the case may require, when the department of agriculture is satisfied that the licensee 19 or holder of a permit is not qualified to sell, use, or 20 apply pesticides under the conditions in the locality in 21 which he operates or has operated, or that he has committed 22 any of the following acts, each of which is declared to be a 23 24 violation of this act:
 - (4)(a) Made made false or fraudulent claims or

- 1 <u>recommendations</u> through any media₇ misrepresenting the 2 effect of materials or methods to be utilized₇:
- 3 (2)(b) Applied applied unapproved or illegal
 4 materials—:
- 5 (3)(c) Operate operated in a faulty, careless, or negligent manner,:
- 7 (4) (d) Operated operated faulty or unsafe equipment-;
 8 (5) (e) Refused refused or neglected to comply with the
 9 provisions of this act, the rules and regulations adopted
 10 hereunder, or of any lawful order of the department of
 11 agriculture-;
- 12 (6)(f) Refused refused or neglected to keep and
 13 maintain the records required by this act, or to make
 14 reports when and as required.:
- 15 (7) (g) Hade made false or fraudulent records or 16 reports:
- 17 (8)(h) Operated operated equipment for the connectial
 18 application of a pesticide without having a license or
 19 permit+;
- 20 (9)(i) Used used fraud or misrepresentation in making
 21 an application for a license or permit or renewal of a
 22 license or permit.
- 23 <u>[1] used or applied a registered pesticide</u>
 24 <u>inconsistent with its labeling or the label or the</u>
- 25 department restrictions on the use of that pesticide.

1 <u>(2)</u> Decisions of the department of agriculture 2 relating to the issuing of licenses or permits may be 3 appealed.**

Section 10. Section 27-231, B.C.M. 1947, is amended to read as follows:

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*27-231. Government agencies. (1) All state agencies, aunicipal corporations, or any other governmental agency shall be subject to the provisions of this act and rules adopted thereunder concerning the application or sale of pesticides. Applicators and operators eperating-equipment for-the-application-of applying pesticides used by-asy-state and dealers selling pesticides for agencies, sunicipal corporations, or any governmental agencies shall be subject to the provisions of sections 9, 11, and 12-f 27-221, 27-222, 27-223, and 27-224, 27-225, and 27-226]-of-this-act and the department of agriculture shall issue a limited commercial applicator's, er operator's, or dealer's license without a fee which shall be valid only when such applicators, and operators, and dealers are applying or selling pesticides for such agencies. Provided, that the jurisdictional health officer, state veterinarian, their duly authorized representatives, or governmental research personnel are exempt from this licensing requirement when applying pesticides to experimental areas."

Section 11. Section 27-232, R.C.M. 1947, is amended to

read as follows:

2 "27-232. Liability. The department of agriculture
3 shall within two (2) years after the effective date of this
4 act, annually require from each connercial pesticide
5 applicator proof of financial responsibility in amounts to
6 be determined under such rules and regulations as made

8 Section 12. Section 27-234, R.C.H. 1947, is amended to

promulgated by the department of agriculture."

read as follows:

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- 10 "27-234. Rules and regulations. (1) The department of
 11 agriculture may adopt by reference without a public hearing
 12 regulations adopted under the federal Insecticide,
 13 Fungicide, and Rodenticide Act, as amended. The department
 14 may, after a public hearing, adopt all rules and regulations
 15 necessary to carry out this act.
 - (2) The rules may prescribe methods of:
- 17 (a) Registration registration, application, use or
 18 restricting use, prohibiting use, offering or exposing for
 19 sale, any pesticide;
- 20 (b) Determining determining whether pesticides are 21 highly texic to man:
- 22 (c) <u>Petersining</u> <u>determining</u> standards of coloring cr 23 discoloring for pesticides, and subjecting pesticides to the 24 requirements of section 27-218;
- 25 (d) <u>Licensing licensing</u> commercial applicators and

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- operators, dealers, retailers, establishing methods of record keeping for applicators, operators, and dealers, and 2 retailers, and providing for the review of the records by 3 the department of agriculture's authorized agent and the submission of the records to the department of agriculture upon written request:
- 7 (e) Issuing issuing farm applicator special use permits and the maintenance and submission of records by farm applicators issued special use permits:
- (f) Collection collection, examination, and standard 10 11 deviation from quarantee analysis and umpire analysis of 12 pesticides and devices:
- (q) Operating operating and maintaining equipment used 13 14 by applicators;

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- (h) Developing developing examinations which shall be held periodically throughout the state; 16
 - (i) Establishing establishing the form and content of all applications for licenses and permits:
 - (i) Designating designating pesticides that may be sold at retail for home, yard, garden, and lawn use. The department of agriculture may also limit retail sale of pesticides, up to a specific number of pounds or gallons and concentration which would be sublethal to humans and animals if small amounts of it were accidentally swallowed, inhaled, sprayed, or dusted on the skin.

- (k) Revoking revoking licenses and permits:
- (1) Registering registering or controlling any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect of that other pesticide, whether or not distributed in a package or container separate from that of a pesticide with which it is to be used:
- (m) Registering registering pesticide fertilizer and 11 12 other chemical blends or, instead of registration, establishing licensing, inspection, and fees for blending 13 14 plants+:
 - (n) Establishing establishing registration procedures for devices with a fee not to exceed five-dellars- (\$5) per type of device, specifying classes of devices to be registered and providing for additional requirements.
 - (3) (a) Where Whenever the department of agriculture finds that those rules and requiations are necessary to carry out the purposes and intent of this act, the rules and regulations may relate to the time, place, manner, and method of registration, application, or selling of the pesticides, may restrict or prohibit use of pesticides in the state or in designated areas during specified periods of

1 time and shall encompass all reasonable factors which the
2 department of agriculture considers necessary to prevent
3 damage or injury to:

4 (a) (i) Persons persons, animals, or pollinating
5 insects from the effect of drift or careless application:

6 (b) (ii) The the environment;

7 (c) (iii) Plants plants, including forage plants;

8 (d) (iv) Wildlife wildlife;

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9 (e) (v) Fish fish and other aquatic life.

10 <u>(b)</u> In issuing the regulations rules, the department
11 of agriculture shall give consideration to pertinent
12 research findings and recommendations of other agencies of
13 this state or of the federal government.

(4) If the department of agriculture finds that an emergency exists which requires immediate action with regard to the registration, use, or application of pesticides, the department of agriculture may, without notice or hearing, issue necessary orders, or rules, ex-regulations to protect the public health, welfare, and safety. An order, or rule, or regulation issued under this subsection is effective for a period no longer than cixty-(60) 120 days after it is issued. If the department of agriculture determines that the emergency order, or rule, or regulation should remain in effect, a public hearing under section 27-235 shall be held within the sixty-(60) day 120-day period to determine

whether the order or rule - or rule should be adopted
by the department of agriculture.

3 (5) All rules, regulations, and orders issued by the department of agriculture shall be in writing, shall be 5 entered in full in bocks to be kept by the department of agriculture for that purpose, shall be indexed, and shall be public records open for inspection at all times during reasonable office hours. Except for orders establishing or changing rules of practice and procedure, all orders made g 10 and published by the department of agriculture shall include 11 and be based upon written findings of fact. A copy of any 12 rule -- regulation or order certified by the department of 13 agriculture er-ita-secretary shall be received in evidence 14 in all courts of this state with the same effect as the original.* 15

16 Section 13. Section 27-235, R.C.E. 1947, is amended to 17 read as follows:

#27-235. Bearings Administrative procedures. (1)
Public hearings. Except as provided in section 27-234, no
rule or regulation shall be adopted by the department of
agriculture without a public hearing upon at least
twenty-one (21) days notice. The public hearing shall be
held at such time and place as may be prescribed by the
department of agriculture, and any interested person is

25 entitled to be heard.

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1	(a)Woticeof-public-hearing-on-the-adoption-of-rules
2	er regulations shall be made by the department of
3	agriculture-as-follows:
4	(i) - Informat motion of the hearing will be cent to all
5	registrantsofposticidesy-to-all-licensedposticide
6	applicators, including farm applicators with restricted—ase
7	persits, and to all licensed pesticide dealers or retailers,
8	provided that the notice shall be sent only to the
9	respective group or groups directly affected by the rules
10	and regulations. Para applicators of nonrestricted
11	posticides will be given informal metice through farm
12	groups,organisationsor-associations-and-by-mouns-of-farm
13	publications.
14	(ii) In all-cases of public hearings for adoption of
15	rulesand-regulations, notice-thereof shall-be published-in
16	five-(5)-newspapers-of-general-sizulation-in-the-state-onse
17	a-week-for-two-(2)-successive-weeks-andthodepartmentof
18	agriculture-shall-issue-appropriate-press-releases-
19	(iii) - Notices - and-publications shall be issued in the
20	name of the state of Hontana, shall be signed by the
21	director of agriculture, shall specify the style and number
22	of the proceedings, and the time and place of the hearing,
23	and shall bricely state the purpose of the proceeding and
24	*ethod-of-procedure.
25	tigh Proof-of-service-by-publication-shall-be-madeby

the -affidavit-of-the-printer-or-publisher-of-the newspaper. Proof-of-cervice-by-mailing-shall-be-made-by-the-affidavit 2 3 of-the-director-of-agriculture. (2) -- Complaints -- In -all -- cases -- whore -a -- complaint -- bas been-made-by-the-department-of-aggiculture-or-its-authorised 5 agents-or-by-any-person-that-any-provisios-of--this--ast--or 6 7 agriculture is being or has been - violated, - notice - of - the 8 hearing -- to -- be hold on such complaint shall be given to the 10 interested-persons. 11 (3) - Except as otherwise - in -this -ast -provided, -the 12 department of agriculture may agt upon the potition of any 13 interested person, On the filing of -a - petition - generalne 14 any -matter within the -jurisdiction of the department of 15 agriculture, the department of agriculture shall-agreently 16 fix-a-date-for-a-hearing-thereen-and-shall-cause-setice-of 17 the hearing-to-be-given, The hearing shall be held - without unduc-dolay-after-the-filing-of-the-petition. The-department 18 19 of-agriculture-shall--enter-its-order-and-findings-on 20 complaints-and-potitions-within-thirty-(30) days-after-the hearing. The administration of this act and all rule making 21 22 and hearing functions under the act shall be conducted in 23 accordance with the Administrative Procedure Act." 24 Section 14. Section 27-240, R.C.H. 1947, is amended to 25 read as follows:

1 *27-240. Advisory council. (1) The director of 2 agriculture may appoint an advisory council to study and 3 make recommendations on special pesticide problems in the state. The council shall consist of individuals 5 representing, equally, controlled industry, agriculture, health, and wildlife. Governmental personnel, university 6 7 personnel not included. may not be represented on the 8 council. Governmental personnel shall meet with the council 9 in an advisory capacity when requested by the council. The 10 council may not exceed twelve-(12) members. The director of 11 agriculture shall establish the time period in which the 12 council shall exist. The time period may not exceed two--- 42+ 13 years. The department of agriculture shall provide the 14 necessary administrative, secretarial, and any other 15 essential items to the council.

(2) Each member of the council shall receive as compensation for his services the sum of twenty-five dellars (\$25) per day for each day actually spent in the performance of his duties and shall be reimbursed for travel expenses as provided for in sections 59-538, 59-539, and 59-801.

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- 21 (3) The council may request that the department of
 22 agriculture hold a public hearing as extlined in section
 23 27-235, to assist it in gathering factual data and
 24 information on the special problems assigned it.
- 25 Section 15. Section 27-242, R.C.M. 1947, is amended to

t read as follows:

read as follows:

2 *27-242. Cooperation with other agencies. The
3 department of agriculture may cooperate with agencies of
4 this state or its subdivisions or with any agency of any
5 other state or the federal government for the purpose of
6 carrying out the provisions of this act and for securing
7 uniformity of regulations rules and entering into reciprocal
8 licensing and certification agreements with other states.*
9 Section 16. Section 27-243, R.C.B. 1947, is amended to

11 *27-243. Enforcement. In enforcing this act, the
12 department of agriculture or its duly authorized agents,
13 upon reasonable cause, shall have the authority to may enter
14 upon private and public premises and property with a warrant
15 or consent of the inhabitant or owner to inspect or
16 investigate at reasonable time:

- (1) Equipment equipment subject to this act;
- 18 (2) **Astwal actual or reported adverse effects caused

 19 by pesticides in humans, crops, animals, land, or other

 20 property: es
- 21 (3) Records records on the selling or use of 22 pesticides and the person's stock of pesticides.
- 23 (4) storage and disposal areas;
- 24 (5) sample pesticides being applied or to be applied:
- 25 <u>or</u>

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(6) the use and application of a pesticide."

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2 Section 17. Section 27-245, R.C.M. 1947, is amended to read as follows:

*27-245. Violation. (1) Any person convicted of violating any of the provisions of this act or the rules and requiations issued thereunder or who may misrepresent, impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department of agriculture or its duly authorized agent in performance of its duty in connection with the provisions of this act, shall be adjudged guilty of a misdemeanor.

- representative is hereby authorized to apply to the district court of the county or any county wherein a violation is about to occur or has occurred to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies of law. The injunction is to be issued without bond.
- (3) Nothing in this act is to be construed as requiring the department of agriculture or its authorized agent to report for prosecution or for the institution of seizure proceedings, minor violations of the act when it believes the public interest will be best served by other

1 remedial action or by a suitable notice of warning in 2 writing: nor is any part of this act to be construed to 3 apply to common carriers transporting shipments tendered to 4 them by the general public.

- 5 (4) Notwithstanding any other provisions of this section, if any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 5 [27-217] of this act, he shall, upon conviction, be fined not more than five hundred-dollars (\$500) or imprisoned for not more than one 11 (1) year or both.
- 12 (5) In all prosecutions under the registration section 13 involving the composition of a lot of pesticide, a certified 14 copy of the official analysis signed by the department of 15 agriculture's authorized chemist shall be accepted as prima 16 facie evidence of the composition."
- Section 18. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
- 23 Section 19. Repealer. Sections 27-236, 27-237, and 24 27-238, R.C.M. 1947, are repealed.
- 25 Section 20. Effective date. This act is effective on

LC 0457/01

1 its passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 457-77

FISCAL NOTE

Form BD-15

In compliance with a written	request received February 10 , 19 _77 , there is hereby submitted a Fiscal Note	
for Senate Bill 124	pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.	
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members		
of the Legislature upon request.		

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 124 amends the pesticide law relating to definitions; registration and embargo of products; licensing of applicators, dealers, and retailers; and eliminating the need of licensing retail pesticide dealers.

ASSUMPTIONS:

- 1. Number of pesticide retailers will remain constant through FY 79.
- 2. Investigation of complaints, selling of unregistered products, display methods, and storage methods related to public health will be maintained by the Department.
- 3. The Department will maintain basic surveillance program of retailers on an integrated system with other retail client inspections.

FISCAL IMPACT:

	FY 78	FY 79
Decrease in revenue due to proposed law	\$7,000	\$7,000
Decrease in expenditures due to proposed law	1,400	<u>1,400</u>
Net General Fund loss due to proposed law	<u>\$5,600</u>	\$5,600

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-/4-77

SP 0124/03

Approved by Committee on Agrigulture Livestock & Irrigation

1	SENATE BILL NO. 124
2	INTRODUCED BY GRABAN
3	BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
4	
5	A BILL FOR AN ACT ENTITIED: "AN ACT TO AMENE THE PESTICIDE
6	LAW RELATING TO DEFINITIONS; BEGISTRATION AND EMBARGO OF
7	PRODUCTS; LICENSING OF APPLICATORS, DEALERS, AND BETAILERS;
8	CERTIFICATION OF FARM APPLICATORS; REVOCATION OF LICENSES
9	AND PERMITS; RULF MAKING AND ADMINISTRATIVE PROCEDURES;
10	ADVISORY COUNCIL; AGENCY CCOPERATION; EMPORCEMENT AND
11	VIOLATIONS: AMENCING SECTIONS 27-216, 27-217, 27-220,
12	27-221, 17-222, 17-225, 27-227, 27-228, 27-230, 27-231,
13	27-232, 27-234, 27-235, 27-240, 27-242, 27-243, AND 27-245,
14	R.C.M. 1947; REPEALING SECTIONS 27-236, 27-237, AND 27-238,
15	R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
16	
17	PE IT FNACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18	Section 1. Section 27-216, R.C.M. 1947, is amended to
19	read as follows:
20	*27-216. Definitions. Unless the context requires
21	otherwise, in this act:
22	(1) "Active ingredient" means:
23	(a) In \underline{in} the case of a pesticide other than a plant
24	regulator, defoliant, or desiccant, an ingredient which will
25	prevent, destroy, repel, alter life processes, or mitigate
The n	honges in SB124 are on page 36 ose refer to yellow copy SECOND READING
Plea	ose refer to yellow copy SECOND READING

insects, nematodes, tungi, rodents, weeds, or other pests+; 2 (b) In in the case of a plant regulator, an ingredient which acts upon the physiclogy to accelerate or retard the rate of growth or rate of maturation or otherwise alter the normal processes of ornamental or crc; plants or their produce-: 7 (c) In in the case of a defoliant, an ingredient which 8 will cause the leaves or foliage to drop from a planty: (d) In in the case of a desiccant, an ingredient which 10 will artificially accelerate the drying of plant tissue. 11 (2) "Adulterated" applies to a pesticide if its 12 strength of purity falls below the professed standard or 13 quality as expressed on labeling or under which it is sold, 14 or if any substance has been substituted wholly or in part 15 for the pesticide, or if any valuable constituent of the 16 pesticide has been wholly or in part abstracted. 17 (3) "Antidote" means the most practical immediate 18 treatment in case of poisoning and includes first-aid 19 first-aid treatment. 20 (4) "Applicator" means a person who applies pesticides 21 by any method.

structures, or vehicles.

(5) "Commercial applicator" means a person who by

contract of for hile applies by aerial, ground, or hand

equipment pesticides to land, plants, seed, animals, waters,

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SF 0124/03

1 Section 15. Section 27-242, B.C.B. 1947, is amended to 2 read as follows:

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"27-242. Cooperation with other agencies. (1) The department of agriculture may cooperate with agencies of this state or its subdivisions or with any agency of any other state or the federal government for the purpose of carrying out the provisions of this act and for securing uniformity of regulations rules and entering into reciprocal licensing and certification agreements with other states.

10 (2) THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND 11 ENVIRONMENTAL SCIENCES SHALL ENTER INTO A MEMCRANDOM OF AGREEMENT CONCERNING THE INSPECTION, REGULATION, AND 12 13 RESPONSIBILITIES OF PERSONS OR ACTIVITIES THAT HAY BE 14 INVOLVED IN THE MANAGEMENT, DISPOSAL, SICRAGE, TRANSPORTATION, TREATMENT, RECYCLING OR BECCVEBY OF 15 16 HAZARDOUS WASTES AS DEFINED IN TITLE 69, CHAPTER 40, AND THE 17 DISPOSAL OF SOLID WASTES AS DEPINED IN TITLE 69. CHAPTER 18 4 C. *

19 Section 16. Section 27-243, R.C.B. 1947, is amended to 20 read as follows:

"27-243. Enforcement. In enforcing this act, the department of agriculture or its duly authorized agents, upon reasonable cause, shall have the authority to ray enter upon private and public premises and property with a warrant or consent of the inhabitant or owner to inspect or

investigate at _easonable time:

- (1) Equipment equipment subject to this act;
- 7 (2) Actual actual or reported adverse effects caused
 4 by pesticides in humans, crops, animals, land, or other
 5 property; ex
- 6 (3) Records records on the selling or use of
 7 pesticides and the person's stock of pesticides.
- 8 (4) storage and disposal acces OF PESTICIDES FT
 9 PERSONS LICENSED OR REGULATED UNDER THIS ACT:
- 10 <u>(5) sample pesticides being applied or to be applied:</u>
 11 or
- 12 (6) the use and application of a pesticide."
- 13 Section 17. Section 27-245, R.C.B. 1947, is amended to
 14 read as follows:
- 15 "27-245. Violation. (1) Any person convicted of violating any of the provisions of this act or the rules and 16 17 regulations issued thereunder or who may misrepresent, impede, obstruct, hinder, or otherwise prevent or attempt to 18 prevent the department of agriculture or its duly authorized 19 20 agent in performance of its duty is connection with the 21 provisions of this act, shall be adjudged guilty of a 22 misdemeanor.
- 23 (2) The department of agriculture or its authorized
 24 representative is hereby authorized to apply to the district
 25 court of the county or any county wherein a violation is

-36- SB 124 -37- SB 124

45th Legislature SB 0124/02 SB 0124/02

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structures, or vehicles.

Approved by Committee on Agriculture Livestock & Irrigation

1 SENATE BILL NO. 124 THYRODUCED BY GRAHAM 2 3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE PESTICIDE 5 LAW RELATING TO DEFINITIONS; REGISTRATION AND EMBARGO OF 6 PRODUCTS: LICENSING OF APPLICATORS, DEALERS, AND RETAILERS: 7 CERTIFICATION OF FARM APPLICATORS: REVOCATION OF LICEBSES 8 AND PERMITS: RULE MAKING AND ADMINISTRATIVE PROCEDURES: 9 ADVISORY COUNCIL: AGENCY COOPERATION; EMPORCEMENT AND 10 VIOLATIONS: AMENDING SECTIONS 27-216, 27-217, 27-220, 11 27-221, 27-222, 27-225, 27-227, 27-228, 27-230, 27-231, 12 27-232, 27-234, 27-235, 27-240, 27-242, 27-243, AND 27-245, 13 R.C.H. 1947; REPEALING SECTIONS 27-236, 27-237, AND 27-238, 14 B.C.M. 1947: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 15 16 BR IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 Section 1. Section 27-216, R.C.M. 1947, is amended to 18 read as follows: 19 #27-216. Definitions. Unless the context requires 20 otherwise, in this act: 21 (1) "Active ingredient" means: 22 (a) In in the case of a pesticide other than a plant 23 regulator, defoliant, or desiccant, an ingredient which will 24

prevent, destroy, repel, alter life processes, or mitigate

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insects, nematodes, fungi, rodents, weeds, or other pests-: (b) In in the case of a plant regulator, an ingredient which acts upon the physiology to accelerate or retard the rate of growth or rate of maturation or otherwise alter the normal processes of ornamental or crop plants or their produce-: (c) In in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant-: (d) In in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue. (2) "Adulterated" applies to a pesticide if its strength of purity falls below the professed standard or quality as expressed on labeling or under which it is sold. or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted. (3) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid first-aid treatment. (4) "Applicator" means a person who applies pesticides by any method. (5) "Commercial applicator" means a person who by 22

contract or for hire applies by aerial, ground, or hand

equipment pesticides to land, plants, seed, animals, waters,

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- 1 (6) "Commercial operator" means a person who applies pesticides under the supervision of a commercial applicator. 2
- 3 (7) "Farm applicator" means a person applying pesticides to his own crops or land.
- 5 (8) "Public utility applicator" means a person applying pesticides to land and structures owned or leased 6 7 by a public utility.
- 8 (9) "Beneficial insects" means those insects which, in the course of their life cycle, carry, transmit, or spread pollen to and from vegetation, act as parasites and predators on other insects, or are otherwise beneficial. 11

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- 12 (10) "Crop" means a food intended for human or animal 13 consumption or a fiber product.
 - (11) "Dealer" means a person who sells, wholesales, offers, or exposes for sale, exchanges, batters, or gives away within this state any pesticide except those pesticides which are to be used for home, yard, garden, home orchard, shade trees, ornamental trees, bushes, and lawn.
- (12) *Defoliant* means a substance or mixture of 19 substances for causing the leaves or foliage to drop from a 20 21 plant. with or without causing abscission.
- (13) "Desiccant" means a substance or mixture of 22 23 substances for artificially accelerating the drying of plant 24 tissue.
- (14) "Device" means any instrument or contrivance 25

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- intended for destroying, controlling, repelling, or
- mitigating pests but not equipment used for the application
- of pesticides. 3
- (15) "Environment" means the soil, air, water, plants,
- and animals.
- (16) "Equipment" means equipment used in the actual 6
- application of pesticides, including aircraft, ground
- 8 sprayers and dusters, hand-held applicators, and water
- q surface equipment.
- nonchlorophyll-bearing 10 (17) "Fungi" means a11
- thallophytes (all monchlorophyll-bearing plants of a lower 11
- order than mosses and liverworts) as, for example, rusts, 12
- sants, mildews, molds, yeasts, and bacteria, except those 13
- resident on or in living man or other animals. 14
- (18) "Pungicide" means a substance or mixture of 15
- substances for preventing, destroying, repelling, or 16
- 17 mitigating any fungus.
- 18 (19) "Herbicide" means a substance or mixture of
- substances for preventing, destroying, repelling, or 19
- mitigating any weed. 20
- 21 (20) "Inert ingredient" means an ingredient which is
- not an active ingredient. 22
- 23 (21) "Ingredient statement" means either:
- (a) A a statement of the chemical name and common name 24
- and percentage of each active ingredient, together with the

total percentage of the inert ingredients, in the pesticide; 2 OF

3 (b) & a statement of the chemical name and common name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. However, subsection (21) (a) of this section 7 applies if the preparation is highly toxic to man, determined as provided in section 27-234, and if the 8 pesticide contains arsenic in any form, the ingredient 10 statement shall also include a statement of the percentage 11 of total and water-soluble arsenic, each calculated as 12 elemental arsenic.

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- (22) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, winged and wingless forms, such as beetles, bugs, wasps, flies, and keds, and to other classes of anthropods arthropods whose members are wingless and usually have more than six legs, such as spiders, sites, ticks, centipedes, and wood lice.
- 21 (23) "Insecticide" means any substance or mixture of substances for preventing, destroying, repelling, or 22 mitigating any insects present in any environment. 23
- (24) "Label" means the written, printed, or graphic 24 25 matter on or attached to the pesticide or device, or to its

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- immediate container, and any outside container or wrapper of 2 any retail package of the pesticide or device.
- 3 (25) "Labeling" means all labels and other written, printed, or graphic matter:
- 5 (a) Upon upon the pesticide or device or any of its containers or wrappers:
- 7 (b) Accompanying accompanying the pesticide or device at any time:
- Ģ (c) To to which reference is made on the label or in 10 literature accompanying the pesticide or device, except when 11 accurate, nonmisleading reference is made to current official publications of the United States environmental 13 protection agency: departments of agriculture, interior, or 14 health, education, and welfarer; state experiment stationsr: 15 state agricultural colleges, or other similar federal institutions or official agencies of this state or other 16 17 states authorized by law to conduct research in the field of pesticides.
 - (26) "Misbranded" applies:

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- (a) To to a pesticide or device if its labeling bears 20 21 any statement, design, or graphic representation relative to 22 its ingredients which is false or misleading.
 - (b) To to a pesticide if:
- (i) It it is an imitation of or is offered for sale 24 under the name of another pesticide:

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person applying the pesticide;

1 (ii) Its its labeling bears any reference to 2 registration under this act:

- (iii) The the labeling accompanying it does not contain instructions for use necessary and, if complied with, adequate for the protection of the public:
 - (iv) The the label does not contain a warning or caution statement necessary and, if complied with, adequate to prevent injury to living man or undue hazard to the environment:

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- (v) The the label of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement on that part of the immediate container and on the cutside or on a wrapper through which the ingredient statement on the immediate container cannot be clearly read:
- (vi) hay any word, statement, or other information required to appear on the labeling is not prominently placed on the labeling with a conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms rendering it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- 23 (vii) In in the case of an insecticide, nematocide, 24 fundicide, or herbicide, when used as directed or in 25 accordance with commonly recognized practice, it is

1 injurious to living men or other vertebrate animals or 2 vegetation, except weeds, to which it is applied, or to the

(viii) In in the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to man or other vertebrate animals or vegetation to which it is applied, or to the person applying the pesticide. Physical or physiological effects on plants or parts of plants are not injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with the label claims and recommendations.

- 12 (27) "Newatocide" means any substance or mixture of 13 substances intended for preventing, destroying, repelling, 14 or mitigating menatodes.
- 15 (28) "Wematodes," "nemas," or "eelworms" means
 16 invertebrate animals of the phylum nemathelminthes and class
 17 nematoda, that is, unsegmented round worms with elongated,
 18 fusiform, or sac-like bodies covered with cuticle, and
 19 inhabiting soil, water, animals, plants, or plant parts.
- 20 (29) "Person" means any natural person, individual,
 21 firm, partnership, association, corporation, company,
 22 joint-stock association, body politic, or organized group of
 23 persons whether incorporated or not, and any trustee,
 24 receiver, assignee, or similar representative.
- 25 (30) "Pest" includes any insect, rodent, nematode,

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smail, slug, weed, and any form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered a pest or which the department declares a pest.

(31) "Pesticide" means any:

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- (a) Substance substance or mixture of substances, including any living organism or any product derived from a living organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, that may infect, or be detrimental to persons, vegetation, crops, animals, structures, or households or be present in any environment or which the department declares a pest;
- (b) Substance substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and,
- (c) Other other substances intended for that use named
 by the department by a rule adopted by it.
 - (32) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or rate of maturation or for otherwise altering physiological condition of plants, but does not include substances to the extent that they are intended as plant nutrients, trace elements,

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- 1 nutritional chemicals, plant inoculants, and soil 2 amendments.
- 3 (33) "Registrant" means the person registering any
 4 pesticide or device under the provisions of this act.
- 5 (34) "Restricted use pesticide" means any pesticide,
 6 including highly toxic pesticides, which the department of
 7 agriculture has found and determined, subsequent to a
 8 hearing, to be injurious when used in accordance with
 9 registration, label, directions, and cautions to persons,
 10 beneficial insects, animals, crops, or the environment other
 11 than the pests it is intended to prevent, destroy, control,
 12 or mitigate.
- 13 (35) "Retailer" means any person who sells, offers, or
 14 exposes for sale, exchanges, barters, or gives away within
 15 this state any pesticide for home, yard, lawn, and garden
 16 use, in quantities or concentrations as determined by the
 17 department of agriculture.
- 18 (36) "Weed" means any plant or part of the plant which
 19 grows where not wanted."
- 20 Section 2. Section 27-217, R.C.M. 1947, is amended to 21 read as follows:
- 22 **27-217. Registration. (1) Every pesticide
 23 distributed, sold, or offered for sale within this state or
 24 delivered for transportation or transported in intrastate
 25 commerce or between points within this state, shall be

registered with the department of agriculture. The 1 registration shall be renewed annually by the manufacturer, 2 er formulator, or distributor of the pesticide. The 3 department of agriculture shall register all approved pesticides and those registered are subject to registration 5 fees and all other provisions of this act. All registrations 7 of pesticides expire on December 31 following the date of issuance, unless otherwise terminated.

(2) The applicant for registration shall file with the department of agriculture a statement including:

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- (a) The the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the registrant;
- (b) A a complete copy of the label of the pesticide, United States environmental protection agency registration number, if the pesticide is so registered, and a statement of all claims to be made for it, including directions for use:
 - (c) The the trade and chemical name of the pesticide;
- (d) If requested by the department of agriculture, a full description of tests made and the results upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last

reregistered.

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- (3) Any pesticide imported into this state, which is 2 subject to the provisions of any federal act providing for the registration of pesticides and which has been registered under the provisions of a federal act, shall be registered in the state. However, the state may restrict the use and application of the pesticide by type of applicator, time, and place and may establish special registrations of pesticides as outlined in subsection (9) (8) of this section and section 27-234(3). The annual registration fee must also 10 be paid, and registration information required by the 11 department of agriculture must be provided. 12
 - (4) The applicant shall pay an annual fee of ton dellars 410) for each pesticide registered. A registration fee is not required to register an experimental use permit. Fees collected shall be deposited in the state treasury to the credit of the general fund.
- (5) The department of agriculture may require the submission of the complete formula and certified analytical standards of any pesticide. If it appears to the department of agriculture that the composition of the article warrants 22 the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 27-218, it shall register the article.

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(6) If it does not appear to the department of agriculture that the article warrants the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with this chapter, it shall notify the applicant of the manner in which the articles. labeling, or other material required to be submitted fails to comply with the act so as to afford the applicant an opportunity to make the necessary corrections. If upon-rescipt-of-the-notice,-the-applicant-door-not-make the corrections the applicant does not make the corrections upon receipt of the notice, the department of agriculture may refuse to register the article. The department of agriculture in accordance with the procedures specified by the department of agriculture, may suspend or cancel the registration of a pesticide whenever it does not appear that the article or its labeling comply with this act. When an application for registration is refused or the department of agriculture proposes to suspend or cancel a registration, the registrant may appeal to the department of agriculture department's as provided for in section 27-236 decision.

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(7) The department of agriculture shall review all registered posticides at least every two (2) years.

(8) [7] Registration is not required in the case of a pesticide shipped from one plant in this state to another plant in this state by the same person.

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1 49+(8) (a) The departments of health and environmental 2 sciences, agriculture, and fish and game shall review all 3 applications for registration of a--posticide--or--devise 4 submitted to the department of agriculture an experimental 5 use permity OR a registration for special local needs---registration of a device. The departments shall utilize the 7 same requirements and standards for reviewing registrations В as established by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and regulations adopted 10 thereunder. The department of agriculture shall provide the 11 departments of health and environmental sciences and fish 12 and game with a complete copy of the application, related 13 correspondence, and a statement of the department of 14 agriculture's proposed action on the application. The departments of health and environmental sciences and fish and game shall approve or disapprove the application within 16 17 three-(3) 10 days after the receipt of the application. If 18 departments of health and environmental sciences. agriculture, and fish and game are in agreement with the 19 20 proposed registration, the department of agriculture shall 21 proceed-with-its issue the registration.

22 (b) The department of agriculture shall establish a
23 time and place for an interagency conference for the
24 purposes of resolving the registration of any pesticide or
25 device. If two (2) of the departments approve the proposed

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registration, the department of agriculture shall proceed
with issue the registration.

- 3 (c) The registrant applying for registration shall be
 4 notified as to proposed changes in registration. If the
 5 departments cannot resolve the proposed registration
 6 following the interagency conference, the registrant may
 7 request a joint administrative hearing before the
 8 departments of agriculture, health and environmental
 9 sciences, and fish and game.
 - (d) Following the interagency conference, and if requested, the administrative hearing, if the proposed registration of a pesticide or device has not been resolved, the department of agriculture shall appoint an advisory council as outlined in section 27-240 to resolve by majority vote the registration of any pesticide. The advisory council's recommendations on the registration shall be accepted by the departments and implemented by the department of agriculture."
- 19 Section 3. Section 27-220, R.C.M. 1947, is amended to 20 read as follows:
- 21 **27-220. Embargo. (1) Whenever a duly authorized agent
 22 of the department of agriculture finds or has probable cause
 23 to believe that any pesticide or device+
- 24 (a) is adulterated or misbranded,

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25 (b) Has has not been registered under the provisions

of sestion 5 (27-217-) of this act+.

2 (c) Fails fails to bear on its label the information
3 required by this act+,

ų, (d) Is is a white powder pesticide and is not colored as required under this act, he shall affix to such article a tag or other appropriate marking, giving notice that -such 7 posticide or device is, or is suspected of being adulterated or wisbranded, not registered, fails to bear the required 9 isformation on the label, is a white powder resticide and 10 not colored -- as required, and thereof and that such article 11 has been detained or embargoed and warning all persons not 12 to remove or dispose of such article by sale or otherwise 13 until permission for removal or disposal is given by such 14 agent or the court. It shall be is unlawful for any person 15 to remove or dispose of such detained or embargoed article 16 by sale or otherwise, without such permission, or to remove 17 or alter the tag or marking.

(2) When an article detained or embargoed under section 8 (1) [subdivision (1) of this section] subsection (1) has been found by such agent to be in violation, if after thirty (30) days the violation has not been resolved, he may petition the district court in whose jurisdiction the article is detained or embargoed for a condemnation of such article. When such agent has found that an article so

25 detained or embargoed is not adulterated or misbranded, he

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shall remove the tag or other marking.

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- (3) If the court finds that a detained or embarqued article is in violation of section 8-(1) [subdivision (1) of this section the act or rules adopted thereunder, such article shall after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees and storage and other proper expenses shall be assessed against the claimant of such pesticide or device or his agent; provided that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond has been executed, conditioned that upon the proper labeling or processing of such pesticide or device shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the department of agriculture. The expense of such supervision shall be paid by claimant. The article shall be returned to the claimant of the pesticide or device on the representation to the court by the department of agriculture that the article is no longer in violation of this act, and that the expenses of such supervision have been paid."
- 25 Section 4. Section 27-221, R.C.M. 1947, is amended to

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1 read as follows:

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2 "27-221. Commercial applicator. (1) It shall be unlawful for any person to engage in the business of applying pesticides for another without a pesticide applicator's license obtained from the department of 5 agriculture. The application shall be accompanied by a fee 7 of ten-dellars (\$10). Applicators applying for a dealer ex potabler license under this act shall be required to pay 9 only a five dellar (\$5) licensing fee for the dealer or 10 retailer license. The provisions of this section shall not 11 apply to any person employed only to operate any equipment 12 used for the application of any pesticide, and in which the 13 person has no financial interest or other control over such 14 apparatus other than its day-to-day mechanical operation for 15 the purpose of applying any pesticide.

- (2) Public utility applicators shall be licensed in the same manner as commercial applicators, provided that public utility operators working under public utility applicators are not required to be licensed, except as provided for under section 27-223.
- (3) Veterinarians licensed as provided in section 66-2204 shall not be required to be licensed to apply nonrestricted pesticides, provided that these veterinarians shall register with the department of agriculture each year; provided further that the veterinarians shall be required to

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- 1 meet all other requirements and requiations rules of the Montana Pesticides Act. The department when-adopting 2 regulations shall consider the professional licensing 3 requirements -- for veterinarians shall consider the 5 professional licensing requirements for veterinarians when 6 adopting rules."
- 7 Section 5. Section 27-222, R.C. H. 1947, is amended to В read as follows:

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- *27-222. Application for applicator's license. (1) Application for a pesticide applicator's license provided for in section 27-221 shall be made annually, to the department of agriculture before applying pesticides in any calendar year, from the department of agriculture. Provided that pesticide applicators applying for renewal of license shall do so on or before April MAY 1 of that calendar year. Any applicator applying for renewal of license after April MAY 1 shall be assessed a \$10 late licensing fee.
- (2) If the application is made for a license to engage in aerial application of pesticides, the applicant shall first meet all of the requirements of the federal aviation agency and the department of community affairs to operate the equipment described in the application."
- 23 Section 6. Section 27-225, R.C.M. 1947, is amended to 24 read as follows:
- 25 "27-225. Dealers. (1) It is unlawful for a dealer to

- sell, deliver, or have delivered within this state any pesticide without first procuring a license from the department of agriculture for each calendar year or portion thereof. A separate dealer's license and fee shall be required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. 7 Pesticide fieldmen or salesmen, employed directly out of the same location or outlet and under a licensed dealer, shall not be required to obtain a license.
- 10 (2) The dealer shall furnish the department of agriculture the names and addresses of its fieldmen and 11 12 salesmen selling pesticides within the state. The 13 application for a license shall be accompanied by a fee of 14 ton dellars (\$10). Dealers applying for renewal of license 15 shall do so on or before april HAY 1 of that calendar year. 16 Any dealer applying for renewal of license after April MAY 1 17 shall be assessed a \$10 late licensing fee.
- 18 (3) The dealer shall require the purchaser of any 19 restricted pesticide to exhibit their his license or permit issued under authority of this act before completing a sale.
- 21 (4) Licensed dealers shall not be required to obtain-a 22 rotail nonconnercial license-or pay the fee; however, -all 23 other-provisions of section-15 [-27-227] shall apply. Dealers may make one application for two annual licenses if the 24 25 application is accompanied by a \$10 licensing fee for each

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(5) Pharmacists and veterinarians, licensed as provided for in section 66-1506, 66-1507, and section 66-2204, and certified pharmacies licensed under section 66-1508(b), shall not be required to be licensed to sell pesticides, provided that the certified pharmacies and veterinarians shall register with the department of agriculture each year. However, the certified pharmacies and veterinarians shall be required to meet all other requirements concerning the commercial sale of pesticides. The department when adopting regulations shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

Section 7. Section 27-227, R.C.E. 1947, is amended to read as follows:

The department of agriculture is authorized to designate the pesticides that may be sold in this state at retail for home, yard, garden, and lawn use. Only pesticides so designated may be sold at retail. The department of agriculture may also limit the retail sale of such designated pesticides to quantities up to a specific number of pound(s) pounds or gallon(s) qallons and of such concentrations as would be sublethal to humans and animals

inhaled, sprayed, or dusted on the skin. 2 (2) -- Back-posticide-retail-outlet-shall-be-required--to obtain -as annual licence from the department of agriculture for purchasing -- and -- celling -- retail -- posticides -- The application for a license shall be accompanied by a sinings 7 fee-of-ten-dollars-(\$10), provided, that-retailors-selling only heman insect repellents chall only be required to pay a 9 licensing for of five-dellars (\$5)." 10 Section 8. Section 27-228, R.C.B. 1947, is amended to 11 read as follows: 12 *27-228. Farm applicators. (1) The department -- of 13 agriculture chall establish which are restricted use 14 pocticides for agricultural uco. Posticides so restricted 15 cannot -- be -- utilized -- by -- the -- fars - applicator - on - cessercial 16 orops, land, or livestock, except as provided in (2) -- below, 17 Farm applicators shall be required to obtain a certificate 18 or special use permit prior to purchasing and using any pesticide designated by the department as a restricted use 19 20 pesticide. The certificate, to be issued for 5 calendar 21 years, must be renewed annually by the department or its authorized representative. The 5-year certification period 22 23 shall commence on January 1, 1978, Provided that the time

period from October 21, 1977, through December 31, 1977,

shall be considered as part of the January 1, 1978, 5-year

if small amounts thereof were accidentally swallowed.

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certification period.

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(2) Farm applicators desiring to apply restricted use posticides on commercial crops, land, or livesteck may obtain an annual special use permit-from the department of agriculture. The department of agriculture shall require the applicant to show upon written examination that he possesses adequate knowledge to use and apply restricted agricultural posticides and the justification for their use on commercial crops, land or livestock. Restricted pesticides may not be utilized by farm applicators or their employees except for the purpose of producing or protecting any agricultural commedity on property owned, leased, or rented, or as provided in (6) of this section.

(3) Farm applicators shall qualify for the certificate or permit by either passing a written examination or attending a training course approved by the department with or without an ungraded quiz. The examination or course shall include practical knowledge as the ability to:

(a) recognize common pests to be controlled and damage caused by them:

(b) read and understand the label and labeling information including the common name of the pesticide(s) applied; pest(s) to be controlled; timing and methods of application; safety precautions; any preharvest or reentry restrictions; and any specific disposal procedures.

1 (c) apply pesticides in accordance with label
2 instructions and warnings, including the ability to prepare

3 the proper concentration of pesticides to be used under

particular circumstances taking into account such factors as

5 area to be covered, speed at which application equipment

6 will be driven, and the quantity dispersed in a given period

7 of operation:

8 (d) recognize local environmental situations that must
9 be considered during application to avoid contamination; and
10 (e) recognize poisoning symptoms and procedures to

11 follow in case of a pesticide accident.

12 (4) The department may require farm applicators to
13 attend a mandatory training session and pass a written
14 examination for those restricted pesticides which are
15 extremely toxic or for which an effective antidote is not
16 available. The department may require farm applicators

17 handling these pesticides to maintain use records.

18 (5) Pars applicators having verified reading
19 disabilities may become certified to use up to two
20 restricted use pesticides by passing a specific oral
21 examination on the particular pesticide(s) if the applicator

22 documents that a certified applicator in the immediate

23 vicinity can advise him.

24 (6) Provisions of this act relating to licensing of 25 farm applicators shall not apply to any farm applicator

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applying nonrestricted pesticides on his own land, or on lands of his neighbor's: PROVIDED, provided that he:

3 (a) He operates farm property and operates and unaintains pesticide application equipment primarily for his own user:

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- (b) He is not regularly engaged in the business of applying pesticides for hire and that he does not publicly hold himself out as a pesticide applicator;
- (c) He operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his immediate neighbors.
- 12 Section 9. Section 27-230, R.C.H. 1947, is amended to 13 read as follows:
 - *27-230. Revocation of licenses and permits. [1] The department of agriculture shall establish the policy and procedures on the revocation of licenses or permits. The department of agriculture may refuse to grant, renew, or may revoke a license or permit, as the case may require, when the department of agriculture is satisfied that the licensee or holder of a permit is not qualified to sell, use, or apply pesticides under the conditions in the locality in which he operates or has operated, or that he has committed any of the following acts, each of which is declared to be a violation of this act:
- 25 (1) (a) Hade made false or fraudulent claims or

- 1 recommendations through any media, misrepresenting the
- 2 effect of materials or methods to be utilized.
- 3 (2)(b) applied applied unapproved or illegal
- 4 materials+:
- 5 (3)(c) Operate operated in a faulty, careless, or
- 6 negligent manner-;
- 7 (4) (d) Operated operated faulty or unsafe equipment.;
- 8 (5) (e) Refused refused or neglected to comply with the
- 9 provisions of this act. the rules and regulations adopted
- 10 hereunder, or of any lawful order of the department of
- 11 agriculturer:
- 12 (6)(f) Refused refused or neglected to keep and
- 13 maintain the records required by this act, or to make
- 14 reports when and as required+:
- 15 47 (g) 8ade made false or fraudulent records or
- 16 reports-:
- 17 (8) (h) Operated operated equipment for the commercial
- 18 application of a pesticide without having a license or
- 19 permit.
- 20 (4) (i) Used used fraud or misrepresentation in making
- 21 an application for a license or permit or renewal of a
- 22 license or permit-:
- 23 (1) used or applied a registered pesticide
- 24 inconsistent with its labeling or the label or the
- 25 department restrictions on the use of that pesticide.

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(2) Decisions of the department of agriculture relating to the issuing of licenses or permits may be appealed.*

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Section 10. Section 27-231, R.C.H. 1947, is amended to read as follows:

*27-231. Government agencies. (1) All state agencies, 6 7 aunicipal corporations, or any other governmental agency shall be subject to the provisions of this act and rules adopted thereunder concerning the application or sale of 9 10 pesticides. Applicators and operators operating equipment 11 for the application of applying pesticides used by any state and dealers selling pesticides for agencies, municipal 12 13 corporations, or any governmental agencies shall be subject to the provisions of sections 9, 10, 11-and 12-[-27-221, 14 15 27-222, 27-223, and 27-224, 27-225, and 27-226 }-of-this-act and the department of agriculture shall issue a limited 16 17 commercial applicator's, or operator's, or dealer's license without a fee which shall be valid only when such 18 applicators, and operators, and dealers are applying or 19 selling pesticides for such agencies. Provided, that the 20 21 jurisdictional health officer, state veterinarian, their duly authorized representatives, or governmental research 22 23 personnel are exempt from this licensing requirement when applying pesticides to experimental areas." 24

Section 11. Section 27-232, R.C.H. 1947, is amended to

read as follows:

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2 #27-232. Liability. The department of agriculture
3 shall within two (3) years after the effective date of this
4 act, annually require from each commercial pesticide
5 applicator proof of financial responsibility in amounts to
6 be determined under such rules and regulations as made
7 promulgated by the department of agriculture.

8 Section 12. Section 27-234, R.C.H. 1947, is amended to 9 read as follows:

10 *27-234. Rules and regulations. (1) The department of
11 agriculture may adopt by reference without a public hearing
12 regulations adopted under the federal Insecticide,
13 Fungicide, and Rodenticide Act, as amended. The department
14 may, after a public hearing, adopt all rules and regulations
15 necessary to carry out this act.

- (2) The rules may prescribe methods of:
- 17 (a) Registration registration, application, use or
 18 restricting use, prohibiting use, offering or exposing for
 19 sale, any pesticide;
- 20 (b) Determining determining whether pesticides are 21 highly toxic to man;
- 22 (c) Determining determining standards of coloring or 23 discoloring for pesticides, and subjecting pesticides to the 24 requirements of section 27-218;
- 25 (d) Licensing commercial applicators and

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operators, dealers, retailers, establishing methods of record keeping for applicators, operators, and dealers, and retailers, and providing for the review of the records by the department of agriculture's authorized agent and the submission of the records to the department of agriculture upon written request:

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- (e) Locuing issuing farm applicator special use permits and the maintenance and submission of records by farm applicators issued special use permits;
- (f) Gollection collection, examination, and standard deviation from quarantee analysis and umpire analysis of pesticides and devices:
- (q) Operating operating and maintaining equipment used by applicators:
- (h) Developing developing examinations which shall be held periodically throughout the state:
- (i) Botablishing establishing the form and content of all applications for licenses and permits:
- (j) Designating designating pesticides that may be sold at retail for home, yard, garden, and lawn use. The department of agriculture may also limit retail sale of pesticides, up to a specific number of pounds or gallons and concentration which would be sublethal to humans and animals if small amounts of it were accidentally smallowed, inhaled, sprayed, or dusted on the skin.

- (k) Revoking revoking licenses and permits:
- 2 (1) Registering registering or controlling any spray adduvant- such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect of that other pesticide, whether or not distributed in a package or container separate from that of a pesticide with which it is to be used:
- (a) Registering registering pesticide fertilizer and 11 12 other chemical blends or, instead of registration, establishing licensing, inspection, and fees for blending 14 plants-:
- 15 (n) Establishing establishing registration procedures for devices with a fee not to exceed five dollars - (\$5) per type of device, specifying classes of devices to be 17 18 registered and providing for additional requirements.
 - (3) (a) Where Whenever the department of agriculture finds that those rules and regulations are necessary to carry out the purposes and intent of this act, the rules and regulations may relate to the time, place, manner, and method of registration, application, or selling of the pesticides. may restrict or prohibit use of pesticides in the state or in designated areas during specified periods of

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- time and shall encompass all reasonable factors which the department of agriculture considers necessary to prevent damage or injury to:
- 4 (a) (i) Persons persons, animals, or pollinating
 insects from the effect of drift or careless application;
- 6 (b) (ii) The the environment;
- 7 (e) (iii) Plants plants, including fcrage plants;
- 8 (d)(iv) Wildlife wildlife;

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- 9 (c) (v) Fish fish and other aquatic life.
- 10 <u>(b)</u> In issuing the regulations <u>rules</u>, the department
 11 of agriculture shall give consideration to pertinent
 12 research findings and recommendations of other agencies of
 13 this state or of the federal government.
 - emergency exists which requires immediate action with regard to the registration, use, or application of pesticides, the department of agriculture may, without notice or hearing, issue necessary orders, or rules, or regulations to protect the public health, welfare, and safety. An order, or rule, or regulation issued under this subsection is effective for a THE period no longer than sixty (60) 120 days after it is issued PRESCRIBED BY THE ADMINISTRATIVE PROCEDURE ACT. If the department of agriculture determines that the emergency order, or rule, or regulation should remain in effect, a public hearing under costion 27-235 shall be held within the

- 1 sixty (60) day 120 day 180VE period to determine whether the 2 ordery or ruley—ex—regulation should be adopted by the 3 department of agriculture.
- (5) All rules, regulations, and orders issued by the department of agriculture shall be in writing, shall be entered in full in books to be kept by the department of agriculture for that purpose, shall be indexed, and shall be public records open for inspection at all times during reasonable office hours. Except for orders establishing or 10 changing rules of practice and procedure, all orders made and published by the department of agriculture shall include 11 12 and be based upon written findings of fact. A copy of any rule---requiation, or order certified by the department of 13 14 agriculture er its-secretary shall be received in evidence 15 in all courts of this state with the same effect as the original." 16
- 17 Section 13. Section 27-235, B.C.M. 1947, is amended to 18 read as follows:
- Public hearings. Broopt as provided in section 27-234, no rule or regulation shall be adopted by the department of agriculture without a public hearing upon at least twenty one (21) days notice. The public hearing shall be held at such time and place as may be prescribed by the department of department of agriculture, and any interested percentis

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(a) Notice of public hearing on the adoption of rules
or regulations shall be made by the department of
agriculture as follows:
(i) - Informal notice of the hearing will be sent to all
registrants of posticidos, to all licensed pesticide

entitled to be beard.

(i) Informal notice of the hearing will be sent to all registrants of posticides, to all licensed pesticide applicators, including farm applicators with restricted use pormits, and to all licensed posticide dealers or retailors, provided that the motice shall be sent only to the research of the release and regulations. Parm applicators of nonrestricted pesticides will be given informal notice through farm groups, organizations or associations and by means of farm publications.

(ii) In-all cases of public hearings for adoption of rules and regulations, notice thereof shall be published in five (5) newspapers of general dissulation in the state once a week for two (2) encossive weeks and the department of agriculture shall issue appropriate press releases.

(iii) Notices and publications shall be issued in the name of the state of Montana, shall be signed by the director of agriculture, shall specify the style and number of the proceedings, and the time and place of the hearing, and shall briefly state the purpose of the proceeding and method of procedure.

1	(i*) Proof of-service-by-publication-shall-be-madeby
2	the affidavit of the printer or publisher of the newspaper.
3	Proof of service-by mailing-shall be-made-bytheaffidavit
4	of the director of agriculture.

- (3) Complaints. In all cases where a complaint has been made by the department of agriculture or its authorised agents or by any person that any prevision of this act or any rule, regulation, or order of the department of agriculture is being or has been violated, setion of the hearing to be held on such complaint chall be given to the interested-persons.
- department of agriculture may act upon the petition of any interested person. On the filing of a potition concerning any matter within the jurisdiction of the department of agriculture, the department of agriculture shall promptly fix a date for a hearing thereon and shall sause notice of the hearing to be given. The hearing shall be held without under delay after the filing of the petition. The department of agriculture shall enter its order and findings on complaints and potitions within thirty (30) days after the hearing. The administration of this act and all rule making and hearing functions under the act shall be conducted in accordance with the Administrative Procedure Act."
- 25 Section 14. Section 27-240, R.C.M. 1947, is amended to

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1 read as follows:

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2 *27-240. Idvisory council. (1) The director of agriculture may appoint an advisory council to study and 3 make recommendations on special pesticide problems in the state. The council shall consist of individuals 5 6 representing, equally, controlled industry, agriculture, 7 health, and wildlife. Governmental personnel, university personnel not included, may not be represented on the 8 9 council. Governmental personnel shall meet with the council 10 in an advisory capacity when requested by the council. The 11 council may not exceed twelve (12) members. The director of 12 agriculture shall establish the time period in which the council shall exist. The time period may not exceed two--- (2)-13 14 years. The department of agriculture shall provide the 15 necessary administrative, secretarial, and any other essential items to the council. 16

- (2) Each member of the council shall receive as compensation for his services the sum of twenty-five dellars +\$25} per day for each day actually spent in the performance of his duties and shall be reimbursed for travel expenses as provided for in sections 59-538, 59-539, and 59-801.
- 22 (3) The council may request that the department of
 23 agriculture hold a public hearing as—outlined—in—section
 24 27-235, to assist it in gathering factual data and
 25 information on the special problems assigned it."

1 Section 15. Section 27-242, R.C.M. 1947, is amended to 2 read as follows:

- 3 *27-242. Cooperation with other agencies. The 4 department of agriculture may cooperate with agencies of 5 this state or its subdivisions or with any agency of any
- 7 carrying out the provisions of this act and for securing

other state or the federal government for the purpose of

- 8 uniformity of regulations rules and entering into reciprocal
 - licensing and certification agreements with other states."
- 10 Section 16. Section 27-243, R.C.M. 1947, is amended to 11 read as follows:
- 12 **27-243. Enforcement. In enforcing this act, the
 13 department of agriculture or its duly authorized agents,
 14 upon reasonable cause, shall have the authority to may enter
- upon private and public premises and property with a warrant or consent of the inhabitant or owner to inspect or
- 17 investigate at reasonable time:
- 18 (1) Equipment equipment subject to this act;
- 19 (2) Astual actual or reported adverse effects caused
 20 by pesticides in humans, crops, animals, land, or other
- 21 property: ex
- 22 (3) Reserve $\underline{records}$ on the selling or use of
- 23 pesticides and the person's stock of pesticides ::
- 24 (4) storage and disposal areas;
- 25 (5) sample pesticides being applied or to be applied:

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2 (6) the use and application of a pesticide."

3 Section 17. Section 27-245, R.C.H. 1947, is amended to 4 read as follows:

w27-245. Violation. (1) Any person convicted of violating any of the provisions of this act or the rules and regulations issued thereunder or who may misrepresent, impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department of agriculture or its duly authorized agent in performance of its duty in connection with the provisions of this act, shall be adjudged guilty of a misdemeanor.

- representative is hereby authorized to apply to the district court of the county or any county wherein a violation is about to occur or has occurred to grant a temperary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies of law. The injunction is to be issued without hond.
- (3) Nothing in this act is to be construed as requiring the department of agriculture or its authorized agent to report for prosecution or for the institution of seizure proceedings. Minor violations of the act when it

believes the public interest will be best served by other
remedial action or by a suitable notice of warning in

3 writing; nor is any part of this act to be construed to

apply to common carriers transporting shipments tendered to

them by the general public.

- 6 (4) Notwithstanding any other provisions of this
 7 section, if any person, with intent to defraud, uses or
 8 reveals information relative to formulas of products
 9 acquired under the authority of section 5-[27-217]-of-this
 10 act, he shall, upon conviction, be fined not more than five
 11 hundred-dellars (\$500) or imprisoned for not more than one
 12 (1) year or both.
- 13 (5) In all prosecutions under the registration section
 14 involving the composition of a lot of pesticide, a certified
 15 copy of the official analysis signed by the department of
 16 agriculture's authorized chemist shall be accepted as prima
 17 facie evidence of the composition."
- 18 Section 18. Severability. If a part of this act is 19 invalid, all valid parts that are severable from the invalid 20 part remain in effect. If a part of this act is invalid in 21 one or more of its applications, the part remains in effect 22 in all valid applications that are severable from the 23 invalid applications.
- 24 Section 19. Repealer. Sections 27-236, 27-237, and 25 27-238, R.C.E. 1947, are repealed.

1 Section 20. Effective date. This act is effective on

2 its passage and approval.

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1	SENATE BILL NO. 124
2	INTRODUCED BY GRAHAM
3	BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
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5	A BILL FOR AN ACT ENTITIED: "AN ACT TO AMEND THE PESTICIDE
6	LAW RELATING TO DEFINITIONS; REGISTRATION AND EMBARGO OF
7	PRODUCTS; LICENSING OF APPLICATORS, DEALERS, AND RETAILERS;
8	CERTIFICATION OF FARM APPLICATORS; REVOCATION OF LICENSES
9	AND PERMITS; RULE MAKING AND ADMINISTRATIVE PROCEDURES;
10	ADVISORY COUNCIL; AGENCY COOPERATION; EMPORCEMENT AND
11	VIOLATIONS; AMENDING SECTIONS 27-216, 27-217, 27-220,
12	27-221, 27-222, 27-225, 27-227, 27-228, 27-230, 27-231,
13	27-232, 27-234, 27-235, 27-240, 27-242, 27-243, ABD 27-245,
14	R.C.M. 1947; REPEALING SECTIONS 27-236, 27-237, AND 27-238,
15	R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.*
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17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18	Section 1. Section 27-216, R.C.M. 1947, is amended to
19	read as follows:
20	*27-216. Definitions. Unless the context requires
21	otherwise, in this act:
22	(1) "Active ingredient" means:
23	(a) In the case of a pesticide other than a plant
24	regulator, defoliant, or desiccant, an ingredient which will

prevent, destroy, repel, alter life processes, or mitigate

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- insects, newatodes, fungi, rodents, weeds, or other pestsw:

 (b) Fa in the case of a plant regulator, an ingredient

 which acts upon the physiology to accelerate or retard the

 rate of growth or rate of maturation or otherwise alter the

 normal processes of ornamental or crop plants or their

 producew:
 - (c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.
 - (d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.
- 11 (2) "Adulterated" applies to a pesticide if its
 12 strength of purity falls below the professed standard or
 13 quality as expressed on labeling or under which it is sold,
 14 or if any substance has been substituted wholly or in part
 15 for the pesticide, or if any valuable constituent of the
 16 pesticide has been wholly or in part abstracted.
- 17 (3) "Antidote" means the most practical immediate
 18 treatment in case of priscoing and includes first-aid
 19 first-aid treatment.
- 20 (4) "Applicator" means a person who applies pesticides21 by any method.
- 22 (5) "Commercial applicator" means a person who by
 23 contract or for hire applies by aerial, ground, or hand
 24 equipment pesticides to land, plants, seed, animals, waters,
 25 structures, or vehicles.

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- 1 (6) "Commercial operator" means a person who applies
 2 pesticides under the supervision of a commercial applicator.
- (7) "Farm applicator" means a person applying
 pesticides to his own crops or land.
- 5 (8) "Public utility applicator" means a person 6 applying pesticides to land and structures owned or leased 7 by a public utility.
- 8 (9) "Beneficial insects" means those insects which, in
 9 the course of their life cycle, carry, transmit, or spread
 10 pollen to and from wegetation, act as parasites and
 11 predators on other insects, or are otherwise beneficial.
- 12 (10) "Crop" means a food intended for human or animal
 13 consumption or a fiber product.

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- (11) "Dealer" means a person who sells, whicesales, offers, or exposes for sale, exchanges, barters, or gives away within this state any pesticide except those pesticides which are to be used for home, yard, garden, home orchard, shade trees, creamental trees, bushes, and lawn.
- 19 (12) "Defoliant" means a substance or mixture of
 20 substances for causing the leaves or foliage to drop from a
 21 plant, with or without causing abscission.
- 22 (13) "Desiccant" means a substance or mixture of
 23 substances for artificially accelerating the drying of plant
 24 tissue.
- 25 (14) "Device" means any instrument or contrivance

- 1 intended for destroying, controlling, repelling, or
- 2 mitigating pests but not equipment used for the application
- 3 of pesticides.
- 4 (15) "Frwironment" means the soil, air, water, plants,
- 5 and animals.
- 6 (16) "Equipment" means equipment used in the actual
- 7 application of pesticides, including aircraft, ground
- 8 sprayers and dusters, band-held applicators, and water
- 9 surface equipment.
- 10 (17) "Pungi" means all nonchlorophyll-bearing
- 11 thallophytes (all nonchlorophyll-bearing plants of a lower
- 12 order than mosses and liverworts) as, for example, rusts,
- 13 smuts, mildews, molds, yeasts, and bacteria, except those
- 14 resident on or in living man or other animals.
- 15 (18) "Fungicide" means a substance or mixture of
- 16 substances for preventing, destroying, repelling, or
- 17 witigating any fungus.
- 18 (19) "Herbicide" means a substance or mixture of
- 19 substances for preventing, destroying, repelling, or
- 20 mitigating any weed.
- 21 (20) "Inert ingredient" weans an ingredient which is
- 22 not an active ingredient.
- 23 (21) "Ingredient statement" means either:
- 24 . (a) A \underline{a} statement of the chemical name and common name
- 25 and percentage of each active ingredient, together with the

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total percentage of the inert ingredients, in the pesticide;
or

- (b) & a statement of the chemical name and common name 3 of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. However, subsection (21) (a) of this section 6 applies if the preparation is highly toxic to wan. 7 determined as provided in sestion 27-234, and if the 8 pesticide contains arsenic in any form, the ingredient statement shall also include a statement of the percentage 10 of total and water-soluble arsenic, each calculated as 11 12 elemental arsenic.
 - (22) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, winged and wingless forms, such as beetles, bugs, wasps, flies, and keds, and to other classes of anthropods arthropods whose members are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood lice.

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- 21 (23) "Insecticide" means any substance or mixture of
 22 substances for preventing, destroying, repelling, or
 23 mitigating any insects present in any environment.
- 24 (24) "Label" means the written, printed, or graphic
 25 matter on or attached to the pesticide or device, or to its

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- immediate container, and any outside container or wrapper of any retail package of the pesticide or device.
- 3 (25) "Labeling" means all labels and other written,
 4 printed, or graphic matter:
- 6 (a) #pen upon the pesticide or device or any of its containers or wrappers:
- 7 (b) Accompanying accompanying the pesticide or device 8 at any time;
- 9 (c) To to which reference is made on the label or in literature accompanying the pesticide or device, except when 10 11 accurate, nonmisleading reference is made to current 12 official publications of the United States environmental protection agency, departments of agriculture, interior, or 13 health, education, and welfare, state experiment stations, 14 15 state agricultural colleges, or other similar federal 16 institutions or official agencies of this state or other 17 states authorized by law to conduct research in the field of pesticides.
 - (26) "Misbranded" applies:

- 20 (a) The to a pesticide or device if its labeling bears
 21 any statement, design, or graphic representation relative to
 22 its ingredients which is false or misleading.
- 23 (b) #0 to a pesticide if:
- 24 (i) It is an imitation of or is offered for sale under the name of another pesticide;

person applying the pesticide;

1 (ii) Its <u>its</u> labeling bears any reference to 2 registration under this act:

- 3 (iii) The the labeling accompanying it does not contain 4 instructions for use necessary and, if complied with, 5 adequate for the protection of the public:
- 6 (iv) The the label does not contain a warning or
 7 caution statement necessary and, if complied with, adequate
 8 to prevent injury to living man or undue hazard to the
 9 environment:

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- (v) The the label of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement on that part of the immediate container and on the outside or on a wrapper through which the ingredient statement on the immediate container cannot be clearly read:
- (vi) hay any word, statement, or other information required to appear on the labeling is not prominently placed on the labeling with a conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms rendering it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- 23 (vii) In in the case of an insecticide, nematocide,
 24 fungicide, or herbicide, when used as directed or in
 25 accordance with commonly recognized practice, it is

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injurious to liwing men or other wertebrate animals or vegetation, except weeds, to which it is applied, or to the

quiti) Fa in the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to man or other vertebrate animals or vegetation to which it is applied, or to the person applying the pesticide. Physical or physiclogical effects on plants or parts of plants are not injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with the label claims and recommendations.

- 12 (27) "Nematocide" means any substance or mixture of 13 substances intended for preventing, destroying, repelling, 14 or mitigating nematodes.
- 15 (28) "Nematodes," "nemas," or "eelworms" means
 16 invertebrate animals of the phylum nemathelminthes and class
 17 nematoda, that is, unsegmented round worms with elongated,
 18 fusiform, or sac-like bodies covered with cuticle, and
 19 inhabiting soil, water, animals, plants, or plant parts.
- 20 (29) "Person" means any natural person, individual,
 21 firm, partnership, association, corporation, company,
 22 joint-stock association, body politic, or organized group of
 23 persons whether incorporated or not, and any trustee,
 24 receiver, assignee, or similar representative.
- 25 (30) "Pest" includes any insect, redent, nematode,

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snail, slug, weed, and any form of plant or animal life or
virus, except virus on or in living man or other animal,
which is normally considered a pest or which the department
declares a pest.

(31) "Pesticide" means any:

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- (a) Substance substance or mixture of substances, including any living organism or any product derived from a living organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, that may infect, or be detrimental to persons, vegetation, crops, animals, structures, or households or be present in any environment or which the department declares a pest;
- 16 (b) Substance substance or mixture of substances
 17 intended for use as a plant regulator, defoliant, or
 18 desiccant; and,
- (c) Other other substances intended for that use named
 by the department by a rule adopted by it.
 - (32) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or rate of maturation or for otherwise altering physiological condition of plants, but does not include substances to the extent that they are intended as plant nutrients, trace elements,

- nutritional chemicals, plant inoculants, and soil
- (33) "Registrant" means the person registering any
 pesticide or device under the provisions of this act.
- 5 (34) "Restricted use pesticide" means any pesticide,
 6 including highly toxic pesticides, which the department of
 7 agriculture has found and determined, subsequent to a
 8 hearing, to be injurious when used in accordance with
 9 registration, label, directions, and cautions to persons,
 10 beneficial insects, animals, crops, or the environment other
 11 than the pests it is intended to prevent, destroy, control,
 12 or mitigate.
- 13 (35) "Retailer" means any person who sells, offers, or
 14 exposes for sale, exchanges, barters, or gives away within
 15 this state any pesticide for home, yard, lawn, and garden
 16 use, in quantities or concentrations as determined by the
 17 department of agriculture.
- 18 (36) "Weed" means any plant or part of the plant which
 19 grows where not wanted."
- 20 Section 2. Section 27-217, R.C.H. 1947, is amended to read as follows:
- 22 **27-217. Registration. (1) Every resticide
 23 distributed, sold, or offered for sale within this state or
 24 delivered for transportation or transported in intrastate
 25 commerce or between points within this state, shall be

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- 1 registered with the department of agriculture. The registration shall be renewed annually by the manufacturer, 2 3 er formulator, or distributor of the pesticide. The 4 department of agriculture shall register all approved pesticides and those registered are subject to registration 6 fees and all other provisions of this act. All registrations 7 of pesticides expire on December 31 following the date of В issuance, unless otherwise terminated.
- 9 (2) The applicant for registration shall file with the 10 department of agriculture a statement including:
- 11 (a) The the page and address of the applicant and the name and address of the person whose name will appear on the label, if other than the registrant:

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- (b) & a complete copy of the label of the pesticide, United States environmental protection agency registration number, if the pesticide is so registered, and a statement of all claims to be made for it, including directions for use:
- (c) The the trade and chemical name of the pesticide:
- 20 (d) If requested by the department of agriculture, a full description of tests made and the results upon which 21 22 the claims are based. In the case of renewal of 23 registration, a statement shall be required only with 24 respect to information which is different from that furnished when the pesticide was registered cr last 25

reregistered.

- (3) Any pesticide imported into this state, which is 2 3 subject to the provisions of any federal act providing for the registration of pesticides and which has been registered under the provisions of a federal act, shall be registered in the state. However, the state may restrict the use and application of the pesticide by type of applicator, time, and place and may establish special registrations of pesticides as outlined in subsection 49+ (8) of this section 9 10 and section 27-234(3). The annual registration fee sust also be paid, and registration information required by the 11 department of agriculture must be provided. 12
- 13 (4) The applicant shall pay an annual fee of tea dellars 4\$10+ for each pesticide registered. A registration 14 15 fee is not required to register an experimental use permit. 16 Pees collected shall be deposited in the state treasury to the credit of the general fund. 17
- 18 (5) The department of agriculture may require the 19 submission of the complete formula and certified analytical 20 standards of any pesticide. If it appears to the department of agriculture that the composition of the article warrants 21 22 the proposed claims for it and if the article and its labeling and other material required to be submitted comply 23 with the requirements of section 27-218, it shall register 24 25 the article.

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(6) If it does not appear to the department of agriculture that the article warrants the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with this chapter, it shall notify the applicant of the manner in which the articles, labeling, or other material required to be sqbmitted fails to comply with the act so as to afford the applicant an opportunity to make the necessary corrections. If upon-reseipt of the notice, the applicant does not make the corrections the applicant does not make the corrections apon receipt of the notice, the department of agriculture may refuse to register the article. The department of agriculture in-accordance-with-the-precedures-specified-by the department of agriculture, may suspend or cancel the registration of a pesticide whenever it does not appear that the article or its labeling comply with this act. When an application for registration is refused or the department of agriculture proposes to suspend or cancel a registration, the registrant may appeal to the department of agriculture department's as previded for in-section 27-236 decision.

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{7}~-The-department-of--agriculture--shall--review--all
registered-posticidos-at-least-every-two-{2}-years*

(8) (7) Registration is not required in the case of a pesticide shipped from one plant in this state to another plant in this state by the same person.

1 (8) (a) The departments of health and environmental 2 sciences, agriculture, and fish and game shall review all applications for registration of a posticide or device submitted-to-the-department of agriculture an experimental 5 use permity OR a registration for special local needs -- or registration of a device. The departments shall utilize the 7 same requirements and standards for reviewing registrations as established by the Federal Insecticide, Fungicide, and 9 Redenticide Act, as amended, and regulations adopted 10 thereunder. The department of agriculture shall provide the 11 departments of health and environmental sciences and fish 12 and game with a complete copy of the application, related 13 correspondence, and a statement of the department of agriculture's proposed action on the application. The 14 departments of health and environmental sciences and fish 15 16 and game shall approve or disapprove the application within 17 three-(3) 10 days after the receipt of the application. If 18 the departments of health and environmental sciences. 19 agriculture, and fish and came are in agreement with the proposed registration, the department of agriculture shall 20 proceed-with-its issue the registration. 21

22 (b) The department of agriculture shall establish a
23 time and place for an interagency conference for the
24 purposes of resolving the registration of any pesticide or
25 device. If two (2) of the departments approve the proposed

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1 registration, the department of agriculture shall proceed
2 with issue the registration.

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- (c) The registrant applying for registration shall be notified as to proposed changes in registration. If the departments cannot resolve the proposed registration following the interagency conference, the registrant may request a joint administrative hearing before the departments of agriculture, health and environmental sciences, and fish and game.
- 10 (d) Following the interagency conference, and if 11 requested, the administrative hearing, if the proposed 12 registration of a pesticide or device has not been resolved, 13 the department of agriculture shall appoint an advisory 14 council as outlined in section 27-240 to resolve by majority 15 vote the registration of any pesticide. The advisory 16 council's recommendations on the registration shall be 17 accepted by the departments and implemented by the 18 department of agriculture."
- 19 Section 3. Section 27-220, R.C.H. 1947, is amended to 20 read as follows:
- 21 **27-220. Embargo. (1) Whenever a duly authorized agent
 22 of the department of agriculture finds or has probable cause
 23 to believe that any pesticide or devices
- 24 (a) Is adulterated or misbranded.
- 25 (b) Has has not been registered under the provisions

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1 of section-5-[27-217-](5) of this act+.

2 (e) Fails fails to bear on its label the information
3 required by this act+.

(d) Is is a white powder pesticide and is not colored as required under this act, he shall affir to such article a tag or other appropriate marking, giving notice that -- such posticide-or-device-is, or is-suspected of-being adulterated or -sightanded, -not -registered, fails to bear the required 9 information-on the label, is a white powder-posticide-and 10 not colored - as required, and thereof and that such article has been detained or embargoed and warning all persons not 11 12 to remove or dispose of such article by sale or otherwise 13 until permission for removal or disposal is given by such agent or the court. It shall be is unlawful for any person 14 15 to remove or dispose of such detained or embarqued article 16 by sale or otherwise, without such permission, or to remove or alter the tag or marking. 17

18 (2) When an article detained or embargoed under
19 section 8- (1) [subdivision (1) of this section] subsection
20 [1] has been found by such agent to be in violation, if
21 after thirty (30) days the violation has not been resolved,
22 he may petition the district court in whose jurisdiction the
23 article is detained or embargoed for a condemnation of such
24 article. When such agent has found that an article so
25 detained or embargoed is not adulterated or misbranded, he

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shall remove the tag or other marking.

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(3) If the court finds that a detained or embargoed article is in violation of section-8-(1)-fsebdivision-(1)-of this-section | the act or rules adopted thereunder, such article shall after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees and storage and other proper expenses shall be assessed against the claimant of such pesticide or device or his agent; provided that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond has been executed, conditioned that upon the proper labeling or processing of such pesticide or device shall be se-labeled er-processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the department of agriculture. The expense of such supervision shall be paid by claimant. The article shall be returned to the claimant of the pesticide or device on the representation to the court by the department of agriculture that the article is no longer in violation of this act, and that the expenses of such supervision have been paid."

Section 4. Section 27-221, R.C.M. 1947, is amended to

read as follows:

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2 *27-221. Commercial applicator. (1) It shall be unlawful for any person to engage in the business of applying pesticides for another without a pesticide applicator's license obtained from the department of agriculture. The application shall be accompanied by a fee 7 of ten-dellars (\$10). Applicators applying for a dealer ex retailer license under this act shall be required to pay only a five-dellar--(\$5) licensing fee for the dealer er 9 10 retailer license. The provisions of this section shall not 11 apply to any person employed only to operate any equipment 12 used for the application of any pesticide, and in which the 13 person has no financial interest or other control over such 14 apparatus other than its day-to-day mechanical operation for 15 the purpose of applying any pesticide.

- 16 (2) Public utility applicators shall be licensed in
 17 the same manner as commercial applicators, provided that
 18 public utility operators working under public utility
 19 applicators are not required to be licensed, except as
 20 provided for under section 27-223.
- 21 (3) Veterinarians licensed as provided in sestion
 22 66-2204 shall not be required to be licensed to apply
 23 nonrestricted pesticides, provided that these veterinarians
 24 shall register with the department of agriculture each year;
 25 provided further that the veterinarians shall be required to

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- meet all other requirements and regulations rules of the

 Kontana Pesticides Act. The department when adopting

 regulations shall consider the prefessional licensing

 requirements for reterimentals shall consider the

 professional licensing requirements for veterinarians when

 adopting rules."
- 7 Section 5. Section 27-222, R.C.M. 1947, is amended to 8 read as follows:
- 9 *27-222. Application for applicator's license. (1) Application for a pesticide applicator's license provided 10 11 for in section 27-221 shall be made annually, to the 12 department_of_agriculture before applying pesticides in any calendar year, from the department of agriculture. Provided 13 14 that pesticide applicators applying for renewal of license 15 shall do so on or before April MAY 1 of that calendar year. Any applicator applying for renewal of license after April 16 17 MIX 1 shall be assessed a \$10 late licensing fee.
 - (2) If the application is made for a license to engage in aerial application of pesticides, the applicant shall first meet all of the requirements of the federal aviation agency and the department of community affairs to operate the equipment described in the application."

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- 23 Section 6. Section 27-225, B.C.M. 1947, is amended to read as follows:
- 25 *27-225. Dealers. (1) It is unlawful for a dealer to

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- sell, deliver, or have delivered within this state any
- 2 pesticide without first procuring a license from the
- 3 department of agriculture for each calendar year or portion
- 4 thereof. A separate dealer's license and fee shall be
- 5 required for each location or outlet from which pesticides
- 6 are distributed, sold, held for sale, or offered for sale.
- 7 Pesticide fieldmen or salesmen, employed directly out of the
- 8 same location or outlet and under a licensed dealer, shall
- 9 not be required to obtain a license.

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- 10 (2) The dealer shall furnish the department of 11 agriculture the names and addresses of its fieldmen and salesmen selling pesticides within the state. The 12 13 application for a license shall be accompanied by a fee of 14 tea dellars (\$10). Dealers applying for renewal of license 15 shall do so on or before april MAY 1 of that calendar year. 16 Any dealer applying for renewal of license after April MAY 1 17 shall be assessed a \$10 late licensing fee.
 - (3) The dealer shall require the purchaser of any restricted pesticide to exhibit their his license or permit issued under authority of this act before completing a sale.
 - (4) Licensed dealers shall not be required to obtain a retail noncemberial license or pay the feet however, all other provisions of section 15 [27-227] shall apply Dealers may make one application for two annual licenses if the application is accompanied by a \$10 licensing fee for each

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year of the state biennium.

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(5) Pharmacists and veterinarians, licensed as provided for in section 66-1506, 66-1507, and section 66-2204, and certified pharmacies licensed under section 66-2204, and certified pharmacies licensed under section 66-1508(b), shall not be required to be licensed to sell pesticides, provided that the certified pharmacies and veterinarians shall register with the department of agriculture each year. However, the certified pharmacies and veterinarians shall be required to meet all other requirements concerning the commercial sale of pesticides. The department when adopting regulations shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

15 Section 7. Section 27-227, R.C.B. 1947, is amended to 16 read as follows:

The department of agriculture is authorized to designate the pesticides that may be sold in this state at retail for home, yard, garden, and lawn use. Only pesticides so designated may be sold at retail. The department of agriculture may also limit the retail sale of such designated pesticides to quantities up to a specific number of peund(s) pounds or gallen(s) qallens and of such concentrations as would be sublethal to humans and animals

if small amounts thereof were accidentally swallowed, inhaled, sprayed, or dusted on the skin. 3 421 -- Rach -- recticide - retail - cutlet - chall-be - required to obtain-an-annual license-fres-the-department-of--agriculture 5 for -purchasing -- and -- celling -- retail -- pesticides -- The application-for-a-license-shall-be-accompanied-by-a--minimum 7 fee of ten dollars (\$10), provided, that retailers selling only-human-insect-recellents-shall-only-be-required-to-pay-a licensing-fee-of-five-dollars-(\$5)-" Section 8. Section 27-228, R.C.M. 1947, is amended to 10 read as follows: 11 12 *27-228. Farm applicators. (1) The-department of eqriculture-chall-catablish-shich-are-restricted--use 13 posticides for agricultural - use, Posticides so restricted 14 15 cannot be utilized by - the fare applicator - on -consercial 16 gross, land, or livestock, except as provided in (2)-below. Farm applicators shall be required to obtain a certificate 17 18 or special use permit prior to purchasing and using any 19 pesticide designated by the department as a restricted use 20 pesticide. The certificate, to be issued for 5 calendar years, aust be renewed annually by the department or its 22 authorized representative. The 5-year certification regiod 23 shall commence on January 1, 1978, Provided that the time period from October 21, 1977, through December 31, 1977, shall be considered as part of the January 1, 1978, 5-year

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certification period.

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(2) Farm applicators desiring to apply restricted use posticides on conservat erops, land, or livesteek may obtain an annual special use permit face the department of agriculture shall require the agriculture. The department of agriculture shall require the applicant to show upon written cramination that he possesses adequate knowledge to use and apply restricted agricultural posticides and the justification for their use on conservat erops, land or livestock. Restricted posticides may not be utilized by farm applicators or their employees except for the purpose of producing or protecting any agricultural commodity on property owned, leased, or rented, or as provided in (6) of this section.

(3) Farm applicators shall qualify for the certificate or permit by either passing a written examination or attending a training course approved by the department with or without an ungraded quiz. The examination or course shall include practical knowledge as the ability to:

(a) recognize common pests to be controlled and damage caused by them;

(b) read and understand the label and labeling information including the common mase of the resticide(s) applied: pest(s) to be controlled: timing and methods of application: safety precautions; any preharvest or reentry restrictions; and any specific disrosal procedures.

1 (c) apply pesticides in accordance with label

2 instructions and warnings, including the ability to prepare

3 the proper concentration of pesticides to be used under

4 particular circumstances taking into account such factors as

5 area to be covered, speed at which application equipment

6 will be driven, and the quantity dispersed in a given period

of operation;

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8 (d) recognize local environmental situations that must

9 be considered during application to avoid contamination; and

(e) recognize poisoning symptoms and procedures to

11 follow in case of a pesticide accident.

12 (4) The department may require farm applicators to

13 attend a mandatory training session and pass a written

14 examination for those restricted pesticides which are

15 extremely toxic or for which an effective antidote is not

16 available. The department may require farm applicators

17 handling these pesticides to maintain use records.

18 (5) Parm applicators having verified reading

19 disabilities may become certified to use ur to two

20 restricted use pesticides by passing a specific oral

21 examination on the particular pesticide(s) if the applicator

22 documents that a certified applicator in the immediate

23 vicinity can advise his.

24 (6) Provisions of this act relating to licensing of

5 farm applicators shall not apply to any farm applicator

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applying nonrestricted pesticides on his own land, or on lands of his neighbor's: PROVIDED, provided that he:

- 3 (a) He operates farm property and operates and a maintains pesticide application equipment primarily for his 5 own user:
- 6 (b) He is not regularly engaged in the business of
 7 applying pesticides for hire and that he does not publicly
 8 hold himself out as a pesticide applicator.

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- (c) He operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his immediate neighbors.
- 12 Section 9. Section 27-230, R.C.M. 1947, is amended to 13 read as follows:
 - "27-230. Revocation of licenses and permits. [1] The department of agriculture shall establish the policy and procedures on the revocation of licenses or permits. The department of agriculture may refuse to grant, renew, or may revoke a license or permit, as the case may require, when the department of agriculture is satisfied that the licensee or holder of a permit is not qualified to sell, use, or apply pesticides under the conditions in the locality in which he operates or has operated, or that he has committed any of the following acts, each of which is declared to be a violation of this act:

(1) (a) Made made false or fraudulent claims or

1 recommendations through any media, misrepresenting the

effect of materials or methods to be utilized-:

- 3 (2) (b) Applied applied unapproved or illegal
 4 materials.
- 5 (3)(c) Operate operated in a faulty, careless, or 6 negligent manner.
- 7 (4)(d) Operated operated faulty or unsafe equipment.
 8 (5)(e) Refused refused or neglected to comply with the
- $\boldsymbol{9}$ provisions of this act, the rules \boldsymbol{and} -regulations adopted
- 10 hereunder, or of any lawful order of the department of
- 11 agriculture-:

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- 12 (6)(f) Refused refused or neglected to keer and
 13 maintain the records required by this act, or to make
- 15 (7) (q) Sade <u>made</u> false or fraudulent records or

reports when and as required+:

- 16 reports-:
 17 (8) (h) Operated operated equipment for the commercial
- 18 application of a pesticide without having a license or
- 20 (9)(i) Used used fraud or misrepresentation in making
 21 an application for a license or permit or renewal of a
- 22 license or permit+;
- 23 (i) used or applied a registered resticide
- 24 inconsistent with its labeling or the label or the
- 25 department restrictions on the use of that pesticide.

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1 (2) Decisions of the department of agriculture
2 relating to the issuing of licenses or permits may be
3 appealed."

Section 10. Section 27-231, R.C.M. 1947, is amended to read as follows:

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*27-231. Government agencies. (1) All state agencies, municipal corporations, or any other governmental agency shall be subject to the provisions of this act and rules adopted thereunder concerning the application or sale of pesticides. Applicators and operators operating -- equipment for the application of applying pesticides used by any state and dealers selling pesticides for agencies, punicipal corporations, or any governmental agencies shall be subject to the provisions of sections 9, 10, 11 and 12 [27-221. 27-222, 27-223, and 27-224, 27-225, and 27-226 }-ef-this-act and the department of agriculture shall issue a limited commercial applicator's, or operator's, or dealer's license without a fee which shall be valid only when such applicators, and operators, and dealers are applying or selling pesticides for such agencies. Provided, that the jurisdictional health officer, state veterinarian, their duly authorized representatives, or governmental research personnel are exempt from this licensing requirement when applying pesticides to experimental areas."

Section 11. Section 27-232, R.C.R. 1947, is amended to

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f read as follows:

2 "27-232. Liability. The department of agriculture

3 shall within two (2) years after the effective date of this

act, annually require from each commercial pesticide

5 applicator proof of financial responsibility in amounts to

6 be determined under such rules and regulations as sade

promulgated by the department of agriculture."

8 Section 12. Section 27-234, R.C.M. 1947, is amended to

9 read as follows:

10 *27-234. Rules and regulations. (1) The department of

11 agriculture may adopt by reference without a public hearing

12 regulations adopted under the federal Insecticide,

13 Fungicide, and Rodenticide Act, as amended. The department

14 may, after a public hearing, adopt all rules and regulations

15 necessary to carry out this act.

(2) The rules may prescribe methods of:

(a) Registration registration, application, use or

restricting use, prohibiting use, offering or exposing for

19 sale, any pesticide;

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20 (b) Determining determining whether pesticides are

highly toxic to man;

22 (c) petermining determining standards of coloring or

23 discoloring for pesticides, and subjecting pesticides to the

24 requirements of section 27-218;

25 (d) Licensing commercial applicators and

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operators, dealers, retailers, establishing methods of record keeping for applicators, operators, and dealers, and retailers, and providing for the review of the records by the department of agriculture's authorized agent and the submission of the records to the department of agriculture upce written request:

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- (e) Issuing issuing farm applicator special use permits and the maintenance and submission of records by farm applicators issued special use permits:
- 10 (f) Collection collection, examination, and standard deviation from quarantee analysis and umpire analysis of pesticides and devices;
 - (q) Operating operating and maintaining equipment used by applicators;
 - (h) Developing developing examinations which shall be held periodically throughout the state:
 - (i) Establishing establishing the form and content of all applications for licenses and permits;
 - (†) Designating designating pesticides that may be sold at retail for home, yard, qarden, and lawn use. The department of agriculture may also limit retail sale of pesticides, up to a specific number of pounds or qallons and concentration which would be sublethal to humans and animals if small amounts of it were accidentally swallowed, inhaled, sprayed, or dusted on the skin.

- (k) Revoking revoking licenses and permits:
- 2 (1) Registering registering or controlling any spray 3 adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent. 5 water modifier, or similar agent with or without toxic properties of its own intended to be used with any other 7 pesticide as an aid to the application or effect of that other pesticide, whether or not distributed in a package or container separate from that of a pesticide with which it is 10 to be used:
- 11 (a) Registoring registering pesticide fertilizer and other chemical blends or, instead of registration, 12 establishing licensing, inspection, and fees for blending 13 14 plants.:
- 15 (n) Establishing establishing registration procedures 16 for devices with a fee not to exceed five dellars (\$5) per 17 type of device, specifying classes of devices to be registered and providing for additional requirements. 18
- 19 (3) (a) Where Whenever the department of agriculture 20 finds that those rules and regulations are necessary to 21 carry out the purposes and intent of this act, the rules and 22 requiations may relate to the time, place, manner, and 23 method of registration, application, or selling of the pesticides, may restrict or probibit use of pesticides in 25 the state or in designated areas during specified periods of

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time and shall encompass all reasonable factors which the department of agriculture considers necessary to prevent damage or injury to:

ta)(i) Persons persons, animals, or pollinating
 insects from the effect of drift or careless application;

(b) (ii) The the environment;

(c) (iii) Plants plants, including forage plants;

8 (d) (iv) Wildlife wildlife;

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9 (e) (v) Fish fish and other aquatic life.

- 10 <u>(b)</u> In issuing the regulations rules, the department
 11 of agriculture shall give consideration to pertinent
 12 research findings and recommendations of other agencies of
 13 this state or of the federal government.
 - emergency exists which requires immediate action with regard to the registration, use, or application of pesticides, the department of agriculture may, without notice or hearing, issue necessary orders, or rules, or regulations to protect the public health, welfare, and safety. An order, or rule, or regulation issued under this subsection is effective for a THE period no longer than cirty (60) 120 days after it is issued PRESCRIBED BY THE ADBIBISTRATIVE PROCEDURY ACT. If the department of agriculture determines that the emergency order, or rule, or regulation should remain in effect, a public hearing under section 27-235 shall be held within the

1 cirty (60) day 120 day ABOVE period to determine whether the
2 order or rule, or regulation should be adopted by the
3 department of agriculture.

- (5) All rules -- regulations and orders issued by the 5 department of agriculture shall be in writing, shall be entered in full in books to be kept by the department of 7 agriculture for that purpose, shall be indexed, and shall be public records open for inspection at all times during 9 reasonable office hours. Except for orders establishing or 10 changing rules of practice and procedure, all orders made 11 and published by the department of agriculture shall include 12 and be based upon written findings of fact. A copy of any 13 rule-required or order certified by the department of agriculture or its secretary shall be received in evidence 14 15 in all courts of this state with the same effect as the 16 original."
- 17 Section 13. Section 27-235, R.C.H. 1947, is amended to 18 read as follows:
- 19 *27-235. Hearings <u>Administrative procedures</u>. (1)
 20 Public hearings. Except as provided in section 27-234, no
 21 Fulo or regulation shall be adopted by the department of
 22 agriculture without a public hearing upon at least
 23 twenty one (21) days! notice. The public hearing shall be
 24 held at such time and place as say be prescribed by the
 25 department of agriculture, and any intersected person in

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2	(a) -Notice of public-hearing-on-the-adoption-ofrule
3	orregulationsshallbemadebythedepartmente
4	agriculture-as-follows:
5	(i) Informal motice of the bearing will be cont-to al
6	registrants of posticides, to all licensed pesticid
7	applicators, including farm applicators with restricted was
8	permits, and to all licensed pesticide dealers or retailers
9	provided that the notice shall be sent enly to the
10	respective group or groups directly affected by the rule
11	and regulations Para applicators of nearestricte
12	posticides vill be given informal notice through far
13	groups,-organizations-or-associations-and-by-meansoffar
14	publications.
15	(ii) - Inallcases of public hearings for adoption-o
16	rules and regulations, notice thereof shall be published i
17	fire (5) -newspapers of general sireslation is the state end
18	aveck-for-two-(2)-saccessive-weeks and the-department-s
19	agriculture-shall-issue-appropriate-press-releases v
20	(iii) Notices and publications shall be issued in the
21	nameofthestateofHontana,shallbesigned-by-th
22	director of agriculture, chall specify the style and number
23	oftheproceedings, and the time-and-place-of-the-hearing
24	and shall-briofly-state the purpose of the proceeding as
25	ectacl-of-procedure-

entitled-to-be-beard-

1	(iv) Proof of service by publication shall-be made by
2	the affidavit of the printer or publisher of the newspaper.
3	Proofofservice-by-mailing-shall-be-made-by-the-affidavit
¢	of-the-director-of-agriculture.
5	(2) - Complaints, In-all-cases - where - a - complaint - has
6	been-made-by-the-department-of-agriculture-or-its-authorized
7	agents-or-by-any-person-that-any-provision-of-this-ast-or
8	amy-ruley-regulation,ororder-ofthedepartmentof
9	agriculture-is-being-or-has-been-violated, notice-of-the
10	hearing-to-be-held-on-sech-sesplaint-shall-be-givestothe
11	interested-persons,
12	(3) Except as otherwise is this ast provided, the
13	department-of-agriculture-may-act-upon-the-potition-of-any
14	interestedperson,Onthe-filing of a-petition-concerning
15	any-matter-within-the-jurisdiction-of-the-department-of
16	agriculture, the dopartmentof-agriculture-shall-promptly
17	fix-a-date-for-a-hearing-therees-and-phall-masseneticeof
18	the-hearing-to-be-givenThe-hearing-shall-be-held-without
19	undue-delay-after-the-filing-of-the-potitionThe-department
20	of-agriculturo-shall-ontor-its-order-and-findings-on
21	complaints-and-petitions within thirty-(30) days after the
22	bearing. The administration of this act and all rule making
23	and hearing functions under the act shall be conducted in
24	accordance with the Administrative Procedure Act."
25	Section 14. Section 27-240, B.C.M. 1947, is amended to

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read as follows:

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"27-240. Advisory council. (1) The director of agriculture may appoint an advisory council to study and make recommendations on special pesticide problems in the state. The council shall consist of individuals representing, equally, controlled industry, agriculture, health, and wildlife. Governmental personnel, university personnel not included, may not be represented on the council. Governmental personnel shall meet with the council in an advisory capacity when requested by the council. The council may not exceed twelve-{12} members. The director of agriculture shall establish the time period in which the council shall exist. The time period may not exceed twe-{2} years. The department of agriculture shall provide the necessary administrative, secretarial, and any other essential items to the council.

- (2) Each member of the council shall receive as compensation for his services the sum of twenty-five-dollars (\$25) per day for each day actually spent in the performance of his duties and shall be reimbursed for travel expenses as provided for in sections 59-538, 59-539, and 59-801.
- 22 (3) The council may request that the department of
 23 agriculture hold a public hearing as outlined in section
 24 27-235, to assist it in gathering factual data and
 25 information on the special problems assigned it.

1 Section 15. Section 27-242, R.C.B. 1947, is amended to 2 read as follows:

3 "27-242. Cooperation with other agencies. (1) The
4 department of agriculture may cooperate with agencies of
5 this state or its subdivisions or with any agency of any
6 other state or the federal government for the purpose of
7 carrying out the provisions of this act and for securing
8 uniformity of regulations rules and entering into reciprocal
9 licensing and certification agreements with other states.

10 (2) THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND 11 ENVIRONMENTAL SCIENCES SHALL ENTER INTO A MERCHANDON OF AGREEMENT CONCERNING THE INSPECTION, REGULATION, AND 12 13 RESPONSIBILITIES OF PERSONS OR ACTIVITIES THAT MAY BE 14 INVOLVED IN THE MANAGEMENT, DISPOSAL, STORAGE, TRANSPORTATION, TREATMENT, RECYCLING ON BECOVERY OF 15 16 HAZARDOUS WASTES AS DEPINED IN TITLE 69, CHAPTER 40, AND THE 17 DISPOSAL OF SOLID WASTES AS DEFINED IN TITLE 69. CHAPTER 40. 18

19 Section 16. Section 27-243, R.C.B. 1947, is amended to
20 read as follows:
21 "27-243. Enforcement. In enforcing this act, the

department of agriculture or its duly authorized agents, upon reasonable cause, shall have the authority to may enter upon private and public premises and property with a warrant or consent of the inhabitant or owner to inspect or

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investigate at reasonable time:

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- (1) Registered equipment subject to this act:
- 3 (2) Astual actual or reported adverse effects caused
 4 by pesticides in humans, crops, animals, land, or other
 5 property: ex
- 6 (3) Records records on the selling or use of pesticides and the person's stock of pesticides.
 - (4) storage and disposal areas OF PESTICIDES ET
 PERSONS LICENSED OR REGULATED UNDER THIS ACT:
- 10 (5) sample pesticides being applied or to be applied:

 11 or
- 12 (6) the use and application of a pesticide."
- Section 17. Section 27-245, R.C.B. 1947, is amended to read as follows:
 - "27-245. Violation. (1) Any person convicted of violating any of the provisions of this act or the rules and regulations issued thereunder or who may misrepresent, impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department of agriculture or its duly authorized agent in performance of its duty in connection with the provisions of this act, shall be adjudged guilty of a misdemeanor.
 - (2) The department of agriculture or its authorized representative is hereby authorized to apply to the district court of the county or any county wherein a violation is

- 1 <u>about to occur or</u> has occurred to grant a temporary or
 2 permanent injunction restraining any person from violating
 3 or continuing to violate any of the provisions of this act
 4 or any rule or regulation promulgated under the act
 5 notwithstanding the existence of other remedies of law. The
 6 injunction is to be issued without bond.
- 7 (3) Nothing in this act is to be construed as requiring the department of agriculture or its authorized agent to report for prosecution or for the institution of 10 seizure proceedings, minor violations of the act when it 11 believes the public interest will be best served by other 12 remedial action or by a suitable notice of warning in 13 writing; nor is any part of this act to be construed to apply to common carriers transporting shipments tendered to 14 15 them by the general public.
- 16 (4) Notwithstanding any other provisions of this
 17 section, if any person, with intent to defraud, uses or
 18 reveals information relative to formulas of products
 19 acquired under the authority of section 5-[27-217]-ef-this
 20 act, he shall, upon conviction, be fined not more than five
 21 hundred dellars (\$500) or imprisoned for not more than one
 22 (1) year or both.
- 23 (5) In all prosecutions under the registration section 24 involving the composition of a lot of pesticide, a certified 25 copy of the official analysis signed by the department of

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- 1 agriculture's authorized chemist shall be accepted as prima
- 2 facie evidence of the composition."
- 3 Section 18. Severability. If a part of this act is
- 4 invalid, all valid parts that are severable from the invalid
- 5 part remain in effect. If a part of this act is invalid in
- 6 one or more of its applications, the part remains in effect
- 7 in all valid applications that are severable from the
- 8 invalid applications.
- 9 Section 19. Repealer. Sections 27-236, 27-237, and
- 10 27-238, B.C.H. 1947, are repealed.
- 11 Section 20. Effective date. This act is effective on
- 12 its passage and approval.

-End-

HOUSE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE AMENDMENTS TO SENATE BILL NO. 124.

Third reading (blue) copy be amended as follows:

1. Amend page 36, section 15, line 16. Following: "WASTES" Strike: "AS DEFINED IN TITLE 69, CHAPTER 40,"

2. Amend page 36, section 15, line 17. Following: "WASTES"
Strike: "AS DEFINED IN TITLE 69, CHAPTER 40"

3. Amend page 36. Following: line 18

- Insert: "(3) For the purpose of this section solid waste means all putrescible and nonputrescible wastes including but not limited to garbage; rubbish; refuse; hazardous wastes; ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood by-products and inert materials. Solid waste does not mean municipal sewage, industrial wastewater affluents, mining wastes regulated under the mining and reclamation laws administered by the department of state lands, slash and forest debris regulated under laws administered by the department of natural resources and conservation, or marketable wood by-products.
 - (4) For the purpose of this section hazardous waste means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which may cause or contribute to an increase in mortality or an increase in serious illness, taking into account the toxicity of the waste, its persistence and degradability in nature, its potential for assimilation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms. Hazardous wastes include but are not limited to those which are toxic, radioactive, corrosive, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat, or other means, excluding wood chips and wood used for manufacturing or fuel purposes."

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ł	SENATE BILL NO. 124
2	INTRODUCED BY GRAHAM
3	BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE PESTICIDE
6	LAW RELATING TO DEFINITIONS; REGISTRATION AND EMBARGO OF
7	PRODUCTS; LICENSING OF APPLICATORS, DEALERS, AND RETAILERS;
8	CERTIFICATION OF FARM APPLICATORS; REVOCATION OF LICENSES
9	AND PERMITS; RULE MAKING AND ADMINISTRATIVE PROCEDURES;
0	ADVISORY COUNCIL; AGENCY COOPERATION; ENFORCEMENT AND
1	VIOLATIONS; AMENDING SECTIONS 27-216, 27-217, 27-220,
2	21-221, 21-222, 21-225, 21-227, 27-228, 24-230, 27-231,
3	27-232, 27-234, 27-235, 27-240, 27-242, 27-243, AND 27-245,
4	R.C.M. 1947; REPEALING SECTIONS 27-236, 27-237, AND 27-238,
15	R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.
16	
17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18	Section 1. Section 27-216, R.C.N. 1947, is amended to
9	read as follows:
0	#27-216. Definitions. Unless the context requires
21	otherwise, in this act:
2	{L} "Active ingredient" means:
3	(a) In in the case of a pesticide other than a plant
4	regulator, defoliant, or desiccant, an ingredient which will
:5	prevent, destroy, repel, alter life processes, or mitigate

1	insects, nematodes, fungi, rodents, weeds, or other pests,
2	(b) In in the case of a plant regulator, an ingredient
3	which acts upon the physiology to accelerate or retard the
4	rate of growth or rate of maturation or otherwise alter the
5	normal processes of ornamental or crop plants or their
6	produce*:
7	(c) In in the case of a defoliant, an ingredient which
8	will cause the leaves or foliage to drop from a plant $\underline{\bullet}$
9	(d) In in the case of a desiccant, an ingredient which
10	will artificially accelerate the drying of plant tissue.
11	(2) "Adulterated" applies to a pesticide if its
12	strength of purity falls below the professed standard or
13	quality as expressed on labeling or under which it is sold
14	or if any substance has been substituted wholly or in part
15	for the pesticide, or if any valuable constituent of the
16	pesticide has been wholly or in part abstracted.
17	(3) "Antidote" means the most practical immediate
18	treatment in case of poisoning and includes firstaid
19	<u>first-aid</u> treatment.
20	(4) #Applicator# means a person who applies pesticides
21	by any method.
22	(5) "Commercial applicator" means a person who by
23	contract or for hire applies by aerial, ground, or hand
24	equipment pesticides to land, plants, seed, animals, waters,

structures, or vehicles.

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(6) "Commercial operator" means a person who applies pesticides under the supervision of a commercial applicator.

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- (7) "Farm applicator" means a person applying pesticides to his own crops or land.
- (8) "Public utility applicator" means a person applying pesticides to land and structures owned or leased by a public utility.
- (9) "Beneficial insects" means those insects which, in the course of their life cycle, carry, transmit, or spread pollen to and from vegetation, act as parasites and predators on other insects, or are otherwise beneficial.
- {10} "Crop" means a food intended for human or animal consumption or a fiber product.
- (11) "Dealer" means a person who sells, wholesales, offers, or exposes for sale, exchanges, barters, or gives away within this state any pesticide except those pesticides which are to be used for home, yard, garden, home orchard, shade trees, ornamental trees, bushes, and lawn.
- (12) "Defoliant" means a substance or mixture of substances for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- (13) "Desiccant" means a substance or mixture of substances for artificially accelerating the drying of plant tissue.
- (14) "Device" means any instrument or contrivance

- intended for destroying, controlling, repelling, or
 mitigating pests but not equipment used for the application
 of pesticides.
- (15) "Environment" means the soil, air, water, plants, and animals.
- 6 (16) "Equipment" means equipment used in the actual
 7 application of pesticides, including aircraft, ground
 8 sprayers and dusters, hand-held applicators, and water
 9 surface equipment.
- 10 (17) "Fungi" means all nonchlorophyll-bearing
 11 thallophytes (all nonchlorophyll-bearing plants of a lower
 12 order than mosses and liverworts) as, for example, rusts,
 13 smuts, mildews, molds, yeasts, and bacteria, except those
 14 resident on or in living man or other animals.
- 15 {18} "Fungicide" means a substance or mixture of
 16 substances for preventing, destroying, repelling, or
 17 mitigating any fungus.
- 18 (19) "Herbicide" means a substance or mixture of
 19 substances for preventing, destroying, repelling, or
 20 mitigating any weed.
- 21 {20} "Inert ingredient" means an ingredient which is 22 not an active ingredient.
- 23 (21) "Ingredient statement" means either:
- 24 (a) * g statement of the chemical name and common name 25 and percentage of each active ingredient, together with the

total percentage of the inert ingredients, in the pesticide;
or

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- (b) * a statement of the chemical name and common name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. However, subsection (21)(a) of this section applies if the preparation is highly toxic to many determined as provided in section 27-234, and if the pesticide contains arsenic in any form, the ingredient statement shall also include a statement of the percentage of total and water-soluble arsenic, each calculated as elemental arsenic.
- (22) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, winged and wingless forms, such as beetles, bugs, wasps, flies, and keds, and to other classes of enthropods arthropods whose members are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood lice.
- (23) "Insecticide" means any substance or mixture of substances for preventing, destroying, repelling, or mitigating any insects present in any environment.
- 24 (24) "Label" means the written, printed, or graphic
 25 matter on or attached to the pesticide or device, or to its

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- immediate container, and any outside container or wrapper of
 any retail package of the pesticide or device.
- 3 (25) "Labeling" means all labels and other written;
 4 printed, or graphic matter:
- (a) Upon upon the pesticide or device or any of its
 containers or wrappers;
 - (b) Accompanying accompanying the pesticide or device at any time;
- 9 (c) Fo to which reference is made on the label or in literature accompanying the pesticide or device, except when 10 accurate, nonmisleading reference is made to current 11 12 official publications of the United States environmental 13 protection agency: departments of agriculture, interior, or 14 health, education, and welfarev; state experiment stationsv: 15 state agricultural colleges, or other similar federal 16 institutions or official agencies of this state or other 17 states authorized by law to conduct research in the field of 18 pesticides.
- 19 (26) "Misbranded" applies:

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- 20 (a) Fo to a pesticide or device if its labeling bears
 21 any statement, design, or graphic representation relative to
 22 its ingredients which is false or misleading.
 - (b) To to a pesticide if:
- 24 (i) ## it is an imitation of or is offered for sale
 25 under the name of another pesticide;

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(ii) **its** labeling bears any reference to registration under this act;

- (iii) The the labeling accompanying it does not contain instructions for use necessary and, if complied with, adequate for the protection of the public;
 - (iv) The the label does not contain a warning or caution statement necessary and, if complied with, adequate to prevent injury to living man or undue hazard to the environment;
 - (v) The the tabel of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement on that part of the immediate container and on the outside or on a wrapper through which the ingredient statement on the immediate container cannot be clearly read;
 - (vi) Any any word, statement, or other information required to appear on the labeling is not prominently placed on the labeling with a conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms rendering it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (vii) In in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is

injurious to living men or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

(viii) In in the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to man or other vertebrate animals or vegetation to which it is applied, or to the person applying the pesticide. Physical or physiological effects on plants or parts of plants are not injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with the label claims and recommendations.

- (27) "Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.
- (28) "Nematodesy" 1 "nemasy" 1 or "eelworms" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, animals, plants, or plant parts.
- 20 (29) "Person" means any natural person: individual;
 21 firm, partnership, association, corporation, company;
 22 joint-stock association, body politic, or organized group of
 23 persons whether incorporated or not, and any trustee;
 24 receiver, assignee, or similar representative.
 - (30) "Pest" includes any insect, rodent, nematode,

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snail, slug, weed, and any form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered a pest or which the department declares a pest.

(31) "Pesticide" means any:

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- (a) Substance substance or mixture of substances, including any living organism or any product derived from a living organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, that may infect, or be detrimental to persons, vegetation, crops, animals, structures, or households or be present in any environment or which the department declares a pest;
- (b) Substance <u>substance</u> or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and
- (c) Other other substances intended for that use named by the department by a rule adopted by it.
 - (32) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or rate of maturation or for otherwise altering physiological condition of plants, but does not include substances to the extent that they are intended as plant nutrients, trace elements,

- 1 nutritional chemicals, plant inoculants, and soil
 2 amendments.
- 3 (33) "Registrant" means the person registering any 4 pesticide or device under the provisions of this act.
- including highly toxic pesticides, which the department of agriculture has found and determined, subsequent to a hearing, to be injurious when used in accordance with registration, label, directions, and cautions to persons, beneficial insects, animals, crops, or the environment other than the pests it is intended to prevent, destroy, control, or mitigate.
- 13 (35) "Retailer" means any person who sells, offers, or
 14 exposes for sale, exchanges, barters, or gives away within
 15 this state any pesticide for home, yard, lawn, and garden
 16 use, in quantities or concentrations as determined by the
 17 department of agriculture.
- 18 (36) "Weed" means any plant or part of the plant which
 19 grows where not wanted."
- 20 Section 2. Section 27-217, R.C.M. 1947, is amended to 21 read as follows:
- 22 **27-217. Registration. (1) Every pesticide 23 distributed, sold, or offered for sale within this state or 24 delivered for transportation or transported in intrastate 25 commerce or between points within this state, shall be

registered with the department of agriculture. The registration shall be renewed annually by the man sturers or formulators or distributor of the pesticide. The department of agriculture shall register all approved pesticides and those registered are subject to registration fees and all other provisions of this act. All registrations of pesticides expire on December 31 following the date of issuance, unless otherwise terminated.

- (2) The applicant for registration shall file with the department of agriculture a statement including:
- (a) The <u>the</u> name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the registrant;
- (b) *a complete copy of the label of the pest-cide, the United States environmental protection agency registration number, if the pesticide is so registered, and a statement of all claims to be made for it; including directions for use;
 - (c) The the trade and chemical name of the pesticide;
- (d) If if requested by the department of agriculture, a full description of tests made and the results upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last

1 reregistered.

- (3) Any pesticide imported into this statew which is subject to the provisions of any federal act providing for the registration of pesticides and which has been registered under the provisions of a federal acty shall be registered in the state. However, the state may restrict the use and application of the pesticide by type of applicator, time, and place and may establish special registrations of pesticides as outlined in subsection (9) [8] of this section and section 27-234(3). The annual registration fee must also be paids and registration information required by the department of agriculture must be provided.
- (4) The applicant shall pay an annual fee of ten dollars—(\$10) for each pesticide registered. A registration fee is not required to register an experimental use permit. Fees collected shall be deposited in the state treasury to the credit of the general fund.
- (5) The department of agriculture may require the submission of the complete formula and certified analytical standards of any pesticide. If it appears to the department of agriculture that the composition of the article warrants the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 27-218; it shall register the article.

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for it or if the article and its labeling and other material required to be submitted do not comply with this chapter, it shall notify the applicant of the manner in which the articles, labeling, or other material required to be submitted fails to comply with the act so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of the notice, the applicant does not make the corrections the applicant does not make the corrections upon receipt of the notice, the department of agriculture may refuse to register the article. The department of agriculture in accordance with the procedures specified by the department of agriculture in application of a pesticide whenever it does not appear that the article or its labeling comply with this act. When an application for registration is refused or the department of agriculture proposes to suspend or cancel a registration, the registrant may appeal to the department of agriculture	(6) If it does not appear to the department of
required to be submitted do not comply with this chapter, it shall notify the applicant of the manner in which the articles, labeling, or other material required to be submitted fails to comply with the act so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of the notice, the applicant does not make the corrections the applicant does not make the corrections upon receipt of the notice, the department of agriculture may refuse to register the article. The department of agriculture in accordance with the procedures specified by the department of agriculture, may suspend or cancel the registration of a pesticide whenever it does not appear that the article or its labeling comply with this act. When an application for registration is refused or the department of agriculture proposes to suspend or cancel a registration, the registrant may appeal to the department of agriculture	agriculture that the article warrants the proposed claims
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agriculture proposes to suspend or cancel a registration. the registrant may appeal to the department of agriculture	the article or its labeling comply with this act. When an
the registrant may appeal to the department-of-agriculture	application for registration is refused or the department of
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department's es-provided for in-section-27-236 decision.	the registrant may appeal to the department-of-agriculture
	department's as-provided-for in-section-27-236 decision.

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{?}--The-department-of--agriculture--shall--review--all
registered-pesticides-at-least-every-two-{2}-years*

†0)(1) Registration is not required in the case of a pesticide shipped from one plant in this state to another plant in this state by the same person.

1 191(8) (a) The departments of health and environmental 2 sciences, agriculture, and fish and game shall review all 3 applications for registration of a--pesticide--or--device submitted--to--the-deportment-of-agriculture an experimental 5 use permity OR a registration for special local needsy--or 6 registration of a device. The departments shall utilize the 7 same requirements and standards for reviewing registrations as established by the Federal Insecticide, Fungicide, and 9 Rodenticide Act. as amended, and regulations adopted 10 thereunder. The department of agriculture shall provide the 11 departments of health and environmental sciences and fish 12 and game with a complete copy of the application, related 13 correspondences and a statement of the department of agriculture's proposed action on the application. The 14 15 departments of health and environmental sciences and fish 16 and game shall approve or disapprove the application within 17 three-(3) 10 days after the receipt of the application. If 18 departments of health and environmental sciences. 19 agriculture, and fish and game are in agreement with the 20 proposed registration, the department of agriculture shall 21 proceed-with-its issue the registration.

(b) The department of agriculture shall establish a time and place for an interagency conference for the purposes of resolving the registration of any pesticide or device. If two (2) of the departments approve the proposed

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registration, the department of agriculture shall proceed
with issue the registration.

- (c) The registrant applying for registration shall be notified as to proposed changes in registration. If the departments cannot resolve the proposed registration following the interagency conference, the registrant may request a joint administrative hearing before the departments of agriculture, health and environmental sciences, and fish and game.
- (d) Following the interagency conference, and if requested, the administrative hearing, if the proposed registration of a pesticide or device has not been resolved, the department of agriculture shall appoint an advisory council as outlined in section 27-240 to resolve by majority vote the registration of any pesticide. The advisory council's recommendations on the registration shall be accepted by the departments and implemented by the department of agriculture.
- 19 Section 3. Section 27-220, R.C.M. 1947, is amended to 20 read as follows:
- 21 *27-220. Embargo. (1) Whenever a duly authorized agent
 22 of the department of agriculture finds or has probable cause
 23 to believe that any pesticide or device.
- 24 tat--Is is adulterated or misbrandeds:
- 25 fb)--Has has not been registered under the provisions

1 of section-5-[27-217][5] of this actts

(c)--fails to bear on its labe) the information required by this actt:

td)--19 is a white powder pesticide and is not colored as required under this act; he shall affix to such article a tag or other appropriate marking, giving notice that—such pesticide-or-device-is, or is suspected of being adulterated or misbranded, not-registered, fails to bear the required information on the label, is a white powder pesticide and not-colored as required, and thereof and that such article has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be is unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise, without such permission, or to remove or alter the tag or marking.

(2) When an article detained or embargoed under section—0—(1)—[subdivision—(1)—of—this—section] subsection
(1) has been found by such agent to be in violation, if after thirty—(30) days the violation has not been resolved, he may petition the district court in whose jurisdiction the article is detained or embargoed for a condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he

shall remove the tag or other marking.

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(3) If the court finds that a detained or embarcoed article is in violation of section-8-(1)-fsubdivision-(1)-of this section; the act or rules adopted thereunder, such article shall after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent. and all court costs and fees and storage and other proper expenses shall be assessed against the claimant of such pesticide or device or his agent; provided that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond has been executed, conditioned that upon the proper labeling or processing of such pesticide or device shall-be--so--labeled or--processedy--hos--been-executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the department of agriculture. The expense of such supervision shall be paid by claimant. The article shall be returned to the claimant of the pesticide or device on the representation to the court by the department of agriculture that the article is no longer in violation of this act, and that the expenses of such supervision have been paid."

Section 4. Section 27-221, R.C.M. 1947, is amended to

read as follows:

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2 *27-221. Commercial applicator. (1) It shall be 3 unlawful for any person to engage in the business of applying pesticides for another without a pesticide applicator's license obtained from the department of agriculture. The application shall be accompanied by a fee 7 of ten--dollars-f\$10%. Applicators applying for a dealer or retailer license under this act shall be required to pay 9 only a five--dollar--(\$5) licensing fee for the dealer or 10 retailer license. The provisions of this section shall not 11 apply to any person employed only to operate any equipment used for the application of any pesticide, and in which the 12 13 person has no financial interest or other control over such 14 apparatus other than its day-to-day mechanical operation for 15 the purpose of applying any pesticide.

- (2) Public utility applicators shall be licensed in the same manner as commercial applicators, provided that public utility operators working under public utility applicators are not required to be licensed, except as provided for under section 27-223.
- (3) Veterinarians licensed as provided in section 66-2204 shall not be required to be licensed to apply nonrestricted pesticides, provided that these veterinarians shall register with the department of agriculture each year; provided further that the veterinarians shall be required to

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1	meet all other requirements and regulations r <u>ules</u> of the
2	Montana Pesticides Act. The department when— udopting
3	regulationsshallconsidertheprofessionallicensing
4	requirementsforveterinarions shall consider the
5	professional licensing requirements for veterinarians when
6	adopting_rules."

7 Section 5. Section 27-222, R.C.M. 1947, is amended to 8 read as follows:

"27-222. Application for applicator's license. (1)
Application for a pesticide applicator's license provided
for in section 27-221 shall be made annually to the
department of agriculture before applying pesticides in any
calendar years from the department of agriculture. Provided
that pesticide applicators applying for renewal of license
shall do so on or before April MAY 1 of that calendar years.
Any applicator applying for renewal of license after April
MAY 1 shall be assessed a \$10 late licensing fee.

(2) If the application is made for a license to engage in aerial application of pesticides, the applicant shall first meet all of the requirements of the federal aviation agency and the department of community affairs to operate the equipment described in the application.

23 Section 6. Section 27-225, R.C.M. 1947, is amended to 24 read as follows:

25 *27-225. Dealers. (1) It is unlawful for a dealer to

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sell, deliver, or have delivered within this state any pesticide without first procuring a license from the department of agriculture for each calendar year or portion thereof. A separate dealer's license and fee shall be required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide fieldmen or salesmeny employed directly out of the same Bocation or outlet and under a licensed dealer, shall not be required to obtain a license.

- (2) The dealer shall furnish the department of agriculture the names and addresses of its fieldmen and salesmen selling pesticides within the state. The application for a license shall be accompanied by a fee of ten-dollars (\$10). Dealers applying for renewal of license shall do so on or before April MAY 1 of that calendar years. Any dealer applying for renewal of license after April MAY 1 shall be assessed a \$10 late licensing fee.
- (3) The dealer shall require the purchaser of any restricted pesticide to exhibit their his license or permit issued under authority of this act before completing a sale.
- (4) ticensed-dealers_shall-not-be-required-to-obtain-a retail-noncommercial-license-or-pay-the-feet-howevery-all other-provisions-of-section 15-{27-227}-shall-apply* Dealers may make one application for two annual licenses if the application is accompanied by a \$10 licensing fee for each

year of the state biennium.

provided for in section 66-1506, 66-1507, and section 66-2204, and certified pharmacies licensed under section 66-1508(b), shall not be required to be licensed to sell pesticides, provided that the certified pharmacies and veterinarians shall register with the department of agriculture each year. However, the certified pharmacies and veterinarians shall be required to meet all other requirements concerning the commercial sale of pesticides. The department when adopting regulations shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules.

Section 7. Section 27-227, R.C.M. 1947, is amended to read as follows:

The department of agriculture is authorized to designate the pesticides that may be sold in this state at retail for home, yard, garden, and lawn use. Only pesticides so designated may be sold at retail. The department of agriculture may also limit the retail sale of such designated pesticides to quantities up to a specific number of pound(s) pounds or quiton(s) gallons and of such concentrations as would be sublethal to humans and animals

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obtain-an-annual-license-from the department-of-agriculture
for---purchasing---and---selling---retail---pesticidesw--The
application-for-a-license-shall-be-accompanied-by-a--minimum
fee--of--ten-dollars-(\$10)y-providedy-that-retailers-selling
only-human-insect-repailents-shall-only-be-required-to-pay-a
licensing-fee-of-five-dollars-(\$5)**

Section 8. Section 27-228, R.C.M. 1947, is amended to read as follows:

"27-228. Farm applicators. (1) The department of agriculture shall establish which are restricted use pesticides for agricultural use. Pesticides so restricted cannot be utilized by the farm applicator on commercial cropsy landy or livestocky except as provided in (2) below. Farm applicators shall be required to obtain a certificate or special use permit prior to purchasing and using any pesticide designated by the department as a restricted use pesticide. The certificate to be issued for 5 calendar years, must be renewed annually by the department or its authorized representative. The 5-year certification period shall commence on January 1, 1978, Provided that the time period from October 21, 1977, through December 31, 1977.

shall be considered as part of the January 1. 1978. 5-year

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cert	ifi	cation	period.

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- (2) form-applicators desiring to apply rest, ... ted-use pesticides-on--commercial--cropsy--landy--or--livestock--may obtain--an--annual-special-use-permit-from-the-department-of agricultures-The-department-of-agriculture-shall-require-the applicant-to-show-upon-written-examination-that-he-possesses adequate-knowledge-to-use-and-apply-restricted--agricultural pesticides-and-the-justification-for-their-use-on-commercial cropsy--land--or-livestocky Restricted pesticides may not be utilized by farm applicators or their employees except for the purpose of producing or protecting any agricultural commodity on property owned. leased, or rented, or as provided in (6) of this section.
- (3) Fare applicators shall qualify for the certificate or permit by either passing a written examination or attending a training course approved by the department, with or without an ungraded quize The examination or course shall include practical knowledge as the ability to:
- 19 (a) recognize common pests to be controlled and damage 20 caused by them:
 - (b) read and understand the label and labeling information including the common name of the pesticide(s) applied: pestis) to be controlled: timing and methods of application: safety precautions: any preharvest or reentry
- 25 restrictions: and any specific disposal procedures.

1	(c) apply pesticides in accordance with label
2	instructions and warnings, including the ability to prepare
3	the proper concentration of pesticides to be used under
4	particular circumstances taking into account such factors as
5	area to be covered, speed at which application equipment
6	will be driven, and the quantity dispersed in a given period
7	of operation:

- 1dl recognize local environmental situations that must be considered during application to avoid contamination; and fel recognize poisoning symptoms and procedures to follow in case of a pesticide accident.
- 12 14) The department way require farm applicators to attend a mandatory training session and pass a written 13 examination for those restricted pesticides which are 14 15 extremely toxic or for which an effective antidote is not 16 available. The department may require farm applicators handling these pesticides to maintain use records. 17
- 18 (5) Farm applicators having verified reading 19 disabilities may become certified to use up to two 20 restricted use pesticides by passing a specific oral 21 examination on the particular pesticide(s) if the applicator 22 documents that a certified applicator in the immediate 23 vicinity can advise him.
- 24 16) Provisions of this act relating to licensing of 25 farm applicators shall not apply to any farm applicator

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applying nonrestricted pesticides on his own landy or on lands of his neighbor's; PROVIDED provided that he:

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- (a) He operates farm property and operates and maintains pesticide application equipment primarily for his own use*:
- 6 (b) He is not regularly engaged in the business of 7 applying pesticides for hire and that—he does not publicly 8 hold himself out as a pesticide applicator*:
 - (c) He operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his immediate neighbors.
- 12 Section 9. Section 27-230, R.C.M. 1947, is amended to
 13 read as follows:
 - *27-230. Revocation of licenses and permits. (1) The department of agriculture shall establish the policy and procedures on the revocation of licenses or permits. The department of agriculture may refuse to grant, renew, or may revoke a license or permit, as the case may require, when the department of agriculture is satisfied that the licensee or holder of a permit is not qualified to sell, use, or apply pesticides under the conditions in the locality in which he operates or has operated, or that he has committed any of the following acts, each of which is declared to be a violation of this act:
- 25 (1)(a) Made made false or fraudulent claims or

- 1 <u>recommendations</u> through any mediay misrepresenting the
- 2 effect of materials or methods to be utilizedwi
- 3 (2)(b) Applied applied unapproved or illegal
 4 materials:
- 5 (3)(c) Operate operated in a faulty, careless, or
 6 negligent manners;
- 7 (4)(d) Operated operated faulty or unsafe equipments:
- 8 (5)(e) Refused refused or neglected to comply with the
- 9 provisions of this act, the rules and-requiations adopted
- 10 hereunder, or of any lawful order of the department of
- 11 agriculturewi
- 12 (6)(f) Refused <u>refused</u> or neglected to keep and
- 13 maintain the records required by this acty or to make
- 14 reports when and as required:
- 15 [7][0] Mode made false or fraudulent records or
- 16 reportsw:
- 17 (0)(h) Operated operated equipment for the commercial
- 18 application of a pesticide without having a license or
- 19 permitwi
- 20 t9til Used used fraud or misrepresentation in making
- 21 an application for a license or permit or renewal of a
- 22 license or permitw:
- 23 (j) used or applied a registered pesticide
- 24 inconsistent with its labeling or the label or the
- 25 department restrictions on the use of that pesticide.

Ł	121	Dec	ision	s of	the	9	department	0	f agric	ult	ıre
2	relating	to	the	issui	ng	of	licenses	or	permiss	may	be
3	appealed.	-									

4 Section 10. Section 27-231, R.C.M. 1947, is amended to 5 read as follows:

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#27-231. Government agencies. (1) All state agencies. municipal corporations, or any other governmental agency shall be subject to the provisions of this act and rules adopted thereunder concerning the application or sale of pesticides. Applicators and operators operating-equipment for-the-application-of applying pesticides used-by-any-state and dealers selling pesticides for agencies, municipal corporations or any governmental agencies shall be subject to the provisions of sections--9y-18y-11-and-12-f27-221, 27-222, 27-223, and 27-224, 27-225, and 27-226 1-of-this-act and the department of agriculture shall issue a limited commercial applicator's, or operator's, or dealer's license without a fee which shall be valid only when such applicators, and operators, and dealers are applying or selling pesticides for such agencies. Provided, that the jurisdictional health officer, state veterinarian, their duly authorized representatives, or governmental research personnel are exempt from this licensing requirement when applying pesticides to experimental areas.*

Section 11. Section 27-232, R.C.M. 1947, is amended to

1 read as follows:

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2 "27-232. Liability. The department of agriculture

3 shall within-two-(2)-years-after-the-effective-date-of-this

4 octy annually require from each commercial pesticide

5 applicator proof of financial responsibility in amounts to

6 be determined under such rules and-requisitions-as-made

7 promulgated by the department of agriculture.

Section 12. Section 27-234, R.C.M. 1947, is amended to read as follows:

*27-234. Rules and regulations. (1) The department of agriculture may adopt by reference without a public hearing regulations adopted under the federal Insecticide. Fungicide, and Rodenticide Act. as amended. The department may, after a public hearing, adopt all rules and regulations necessary to carry out this act.

- (2) The rules may prescribe methods of:
- 17 (a) Registration registration, application, use or
 18 restricting use, prohibiting use, offering or exposing for
 19 sale, any pesticide;
- 20 (b) Determining determining whether pesticides are 21 highly toxic to man;
- 22 (c) Determining determining standards of coloring or 23 discoloring for pesticides, and subjecting pesticides to the 24 requirements of section 27-218;
- 25 (d) <u>ticensing</u> commercial applicators and

operators, dealers, retailers, establishing methods of record keeping for applicators, operators, and dealers, and retailers, and providing for the review of the records by the department of agriculture's authorized agent and the submission of the records to the department of agriculture upon written request;

- (e) <u>issuing</u> farm applicator special use permits and the maintenance and submission of records by farm applicators issued special use permits:
- (f) Collection collection, examination, and standard deviation from guarantee analysis and umpire analysis of pesticides and devices;
- (g) Operating operating and maintaining equipment used by applicators;
- 15 (h) Beveloping developing examinations which shall be
 16 held periodically throughout the state;
 - (i) Establishing establishing the form and content of all applications for licenses and permits;
 - (j) Besignating designating pesticides that may be sold at retail for home, yard, garden, and lawn use. The department of agriculture may also limit retail sale of pesticides, up to a specific number of pounds or gallons and concentration which would be sublethal to humans and animals if small amounts of it were accidentally swallowed, inhaled, sprayed, or dusted on the skin.

- (k) Revoking revoking licenses and permits;
- (1) Registering registering or controlling any spray adjuvanty such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect of that other pesticide, whether or not distributed in a package or container separate from that of a pesticide with which it is to be used:

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- (m) Registering registering pesticide fertilizer and other chemical blends or, instead of registration, establishing licensing, inspection, and fees for blending plantsw;
- (n) Establishing establishing registration procedures for devices with a fee not to exceed five-dollars-(\$5) per type of device, specifying classes of devices to be registered and providing for additional requirements.
- (3) (a) Where Whenever the department of agriculture finds that those rules and—regulations are necessary to carry out the purposes and intent of this act, the rules and regulations may relate to the time, place, manner, and method of registration, application, or selling of the pesticides, may restrict or prohibit use of pesticides in the state or in designated areas during specified periods of

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time and shall encompass all reasonable factors which the department of agriculture considers necessary prevent damage or injury to:

telil Persons persons, animals, or pollinating
insects from the effect of drift or careless application;

tb)(ii) The the environment;

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tet(iii) Plants plants, including forage plants;

td)(iv) Wildlife;

tel(v) Fish fish and other aquatic life.

(b) In issuing the regulations rules, the department of agriculture shall give consideration to pertinent research findings and recommendations of other agencies of this state or of the federal government.

(4) If the department of agriculture finds that an emergency exists which requires immediate action with regard to the registration, uses or application of pesticides, the department of agriculture may, without notice or hearing, issue necessary ordersy or rulesy-or-regulations to protect the public health, welfare, and safety. An ordery or ruley or-regulation issued under this subsection is effective for a IHE period no-longer than sixty (60) 120 days after it is issued PRESCRIBED BY THE ADMINISTRATIVE PROCEDURE ACT. If the department of agriculture determines that the emergency ordery or ruley-or-regulation should remain in effect, a public hearing under section 27-235 shall be held within the

sixty-(68)-day <u>128-day</u> <u>ABOVE</u> period to determine whether the ordery <u>or</u> ruley-or-regulation should be adopted by the department of agriculture.

(5) All rules—requisions—and orders issued by the department of agriculture shall be in writing—shall be entered in full in books to be kept by the department of agriculture for that purpose—shall be indexed—and shall be public records open for inspection at all times during reasonable office hours—Except for orders establishing or changing rules of practice and procedure—all orders made and published by the department of agriculture shall include and be based upon written findings of fact—A copy of any rule—regulation—or order certified by the department of agriculture or—its—secretary shall be received in evidence in all courts of this state with the same effect as the original—"

17 Section 13. Section 27-235, R.C.M. 1947, is amended to read as follows:

#27-235. Hearings Administrative procedures. (1)
Public-hearings Except-as-provided-in-section-27-234v-no
rule-or-regulation-shall-be-adopted-by-the-department-of
agriculture-without-a-public-hearing--upon--at--least
twenty-one-(21)-days*--notices-The-public-hearing-shall-be
held-at-such-time and-place-as--may--be--prescribed--by--the
department--of--sariculturey--and--any--interested-person-is

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entitled-to-be-heardw
ta)Notice-of-public-hearing-on-the-adoption-ofrules
orregulationsshallbemadebythedepartmentof
agriculture-as-follows+
(i)Informal-notice-of-the-hearing-will-be-sent-to-all
registrantsofpesticidesytoalllicensedpesticide
applicatorsincluding-form-applicators-with-restricted-use
permitsy-and-to-all-licensed-pesticide-dealers-or-retailersy
providedthetthenoticeshellbesentonlytothe
respective-group-or-groups-directly-affected-by-the-rules
andregulationsfarmapplicatorsofnonrestricted
pesticideswillbegiveninformalnoticethroughfarm
groupsy-organizations-or-associations-and-by-meansoffarm
publications
(ii)Inellceses-of-public-hearings-for-adoption-of
rules-and-regulationsy-notice-thereof-shall-be-publishedin
five-(5)-newspapers-of-general-circulation-in-the-state-once
aweekfortwo-(2)-successive-weeks-and-the-department-of
agriculture-shall-issue-appropriate-press-releases
tititNotices-and-publications-shall-be-issued-inthe
nameofthestateofMontanayshallbesigned-by-the
director-of-agriculture,-shall-specify-the-style-andnumber
director-of-agriculturev-shall-specify-the-style-andnumber oftheproceedingsv-and-the-time-and-place-of-the-hearingv

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method-of-procedure*

1	tivtProofof-service-by-publication-shall-be-made-by
2	the-affidavit-of-the-printer-or-publisher-of-the-newspaperw
3	Proofofservice-by-mailing-shall-be-made-by-the-affidavit
4	of-the-director-of-agriculture.
5	(2)Complaints-In-all-caseswhereacomplainthas
6	been made by the department of agriculture or its authorized
7	agentsorbyony-person-that-any-provision-of-this-act-or
8	anyruleyregulationyororderofthedepartmentof
9	agricultureisbeingorhas-been-violatedv-notice-of-the
10	hearing-to-be-held-on-such-complaint-shall-be-giventothe
11	interested-persons.
12	(3)Exceptasotherwiseinthisact-providedy-the
13	department-of-agriculture-may-act-upon-the-petitionofany
14	interestedpersonBnthe-filing-of-a-petition-concerning
15	ony-matter-within-thejurisdictionofthedepartmentof
16	agriculturevthedepartmentof-agriculture-shall-promptly
17	fix-a-date-for-a-hearing-thereon-and-shall-cousenoticeof
18	thehearingto-be-givens-The-hearing-shall-be-held-without
19	undue-delay-after-the-filing-of-the-petitions-The-department
20	ofagricultureshallenteritsorderandfindingson
21	complaintsandpetitions-within-thirty-(38)-days-after-the
22	hearing Ine administration of this act and all rule making
23	and hearing functions under the act shall be conducted in
24	accordance with the Administrative Procedure Act."
25	Section 14. Section 27-240, R.C.M. 1947, is amended to

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read as follows:

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2 #27-240. Advisory council. (1) The di. tor of agriculture may appoint an advisory council to study and make recommendations on special pesticide problems in the The council shall consist of individuals state. representing, equally, controlled industry, agriculture, health, and wildlife. Governmental personnel, university personnel not included, may not be represented on the council. Governmental personnel shall meet with the council in an advisory capacity when requested by the council. The council may not exceed twelve-112+ members. The director of agriculture shall establish the time period in which the council shall exist. The time period may not exceed two-{2} years. The department of agriculture shall provide the necessary administrative, secretarial, and any other essential items to the council.

- (2) Each member of the council shall receive as compensation for his services the sum of twenty-five-dollars f\$257 per day for each day actually spent in the performance of his duties and shall be reimbursed for travel expenses as provided for in sections 59-538, 59-539, and 59-801.
- (3) The council may request that the department of agriculture hold a public hearing as-outlined-in-section 27-235y to assist it in gathering factual data information on the special problems assigned it."

1 Section 15. Section 27-242. R.C.M. 1947. is amended to 2 read as follows:

3 #27-242. Cooperation with other agencies. [1] The department of agriculture may cooperate with agencies of 5 this state or its subdivisions or with any agency of any other state or the federal government for the purpose of 7 carrying out the provisions of this act and for securing uniformity of requietions rules and entering into reciprocal

- licensing and certification agreements with other states. 10 (2) THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND 11 ENVIRONMENTAL SCIENCES SHALL ENTER INTO A MEMORANDUM OF 12 AGREEMENT CONCERNING THE INSPECTION. REGULATION. AND 13 RESPONSIBILITIES OF PERSONS OR ACTIVITIES THAT MAY BE INVOLVED IN THE MANAGEMENT. DISPOSAL. STORAGE. 14 15 IRANSPORTATION. TREATMENT. RECYCLING OR RECOVERY OF 16 HAZARDOUS WASTES AS BEFINED IN TITLE 69 CHAPTER 40 AND THE 17 DISPOSAL OF SOLID WASTES AS BEFINED -- IN-TITLE -- 69 -- CHAPTER 18 40."
- 19 13) FOR THE PURPOSE OF THIS SECTION. SOLID HASTE MEANS 20 ALL PUTRESCIBLE AND NONPUTRESCIBLE WASTES INCLUDING BUT NOT 21 LIMITED TO GARBAGE: RUBBISH: REFUSE: HAZARDOUS WASTES: 22 ASHES: SLUDGE FROM SEWAGE TREATMENT PLANTS. WATER SUPPLY 23 IREAIMENT PLANTS: OR AIR POLLUTION CONTROL FACILITIES: 24 CONSTRUCTION AND DEMOLITION WASTES: DEAD ANIMALS: INCLUDING 25 OFFAL: DISCARDED HOME AND INDUSTRIAL APPLIANCES: AND HOOD

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2	HASTE DGES NOT MEAN MUNICIPAL SENAGE: INDUSTRIAL WASTEWATER
3	AFFLUENTS. MINING WASTES REGULATED UNDER THE MINING AND
4	RECLAMATION LAWS ADMINISTERED BY THE DEPARTMENT OF STATE
5	LANDS: SLASH AND FOREST DEBRIS REGULATED UNDER LAWS
6	ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES AND
7	CONSERVATION. OR MARKETABLE WOOD BY-PRODUCTS.
8	(4) FOR THE PURPOSE OF THIS SECTION HAZARDOUS WASTE
9	MEANS ANY WASTE OR COMBINATION OF WASTES OF A SOLID. LIQUID.
10	CONTAINED GASEOUS: OR SEMI-SOLID FORM MHICH MAY CAUSE OR
11	CONTRIBUTE TO AN INCREASE IN NORTALITY OR AN INCREASE IN
12	SERIOUS ILLNESS. TAKING INTO ACCOUNT THE TOXICITY OF THE
13	WASTER ITS PERSISTENCE AND DEGRADABILITY IN NATURE. ITS
14	POTENTIAL FOR ASSIMILATION OR CONCENTRATION IN TISSUE. AND
15	OTHER FACTORS THAT MAY OTHERWISE CAUSE OR CONTRIBUTE TO
16	ADVERSE ACUTE OR CHRONIC EFFECTS ON THE HEALTH OF PERSONS OR
17	OTHER LIVING ORGANISMS. HAZARDOUS WASTES INCLUDE BUT ARE
18	NOT LIMITED TO THOSE WHICH ARE TOXIC+ RADIOACTIVE.
19	CORROSIVE. FLAMMABLE. IRRITANTS. STRONG SENSITIZERS. OR
20	WHICH GENERATE PRESSURE THROUGH DECOMPOSITION. HEAT. OR
21	DIHER MEANS: EXCLUDING WOOD CHIPS AND WOOD USED FOR
22	MANUFACTURING OR FUEL PURPOSES.

Section 16. Section 27-243, R.C.M. 1947, is amended to

#27-243. Enforcement. In enforcing this act, the

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read as follows:

PRODUCTS OR WOOD BY-PRODUCTS AND INERT MATERIALS. SOLID

ì	department of agriculture or its duly authorized agents
2	upon reasonable cause, shall have the authority to may enter
3	upon private and public premises and property with a warrant
4	or consent of the inhabitant or owner to inspect or
5	investigate at reasonable time:
6	(1) Equipment equipment subject to this act;
7	(2) *ctual actual or reported adverse effects caused
8	by pesticides in humans, crops, animals, land, or other
9	property; or
10	(3) Records <u>records</u> on the selling or use of
11	pesticides and the person's stock of pesticideswi
12	14) storage and disposal eress OF PESTICIDES BY
13	PERSONS LICENSED OR REGULATED UNDER THIS ACT:
14	(5) sample pesticides being applied or to be applied:
15	οτ
16	(6) the use and application of a pesticide."
17	Section 17. Section 27-245. R.C.N. 1947. is amended to
18	read as follows:
19	#27-245. Violation. (1) Any person convicted of
20	violating any of the provisions of this act or the rules and
21	requisitions issued thereunder or who may misrepresents
22	impede, obstruct, hinder, or otherwise prevent or attempt to
23	prevent the department of agriculture or its duly authorized
24	agent in performance of its duty in connection with the

provisions of this act, shall be adjudged guilty of a

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misdemeanor.

- (2) The department of agriculture or its athorized representative is hereby authorized to apply to the district court of the county or any county wherein a violation is about to occur or has occurred to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or—regulation promulgated under the act notwithstanding the existence of other remedies of law. The injunction is to be issued without bond.
- (3) Nothing in this act is to be construed as requiring the department of agriculture or its authorized agent to report for prosecution or for the institution of seizure proceedings, minor violations of the act when it believes the public interest will be best served by other remedial action or by a suitable notice of warning in writing; nor is any part of this act to be construed to apply to common carriers transporting shipments tendered to them by the general public.
- (4) Notwithstanding any other provisions of this section, if any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section-5-f27-217-of-this act, he shall, upon conviction, be fined not more than five hundred-dollars—(\$500) or imprisoned for not more than one

1 (1) year or both.

(5) In all prosecutions under the registration section involving the composition of a lot of pesticide, a certified copy of the official analysis signed by the department of agriculture's authorized chemist shall be accepted as prima facie evidence of the composition.

Section 18. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

13 Section 19. Repealer. Sections 27-236, 27-237, and 14 27-238. R.C.M. 1947, are repealed.

Section 20. Effective date. This act is effective on its passage and approval.

-End-

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