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Senste BILL NO. 194 1 INTRODUCED BY Dergeson The 2 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL 6 REVISIONS OF LAWS RELATING TO SEED WAREHOUSES; AMENDING SECTIONS 3-310, 3-311, 3-313, 3-316, 3-802.4, 3-1902, 7 З 3-1907. AND 3-1908. R.C.M. 1947." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 3-310, R.C.M. 1947, is amended to 11 12 read as follows:

13 "3-310. Definitions. When used in this act the
14 following definitions apply:

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

20 (3) "Hontana certified seed grower" means a member of 21 an authorized Hontana seed certifying agency who has 22 consented to increase produce seed under the rules for 23 certified classes of seed, with respect to the maintenance 24 of ganetic purity and variety identity, set forth by the 25 certifying agency.

INTRODUCED BILL

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

3 (5) "Public agricultural seed warehouse" means and 4 includes any warehouse or structure in which agricultural 5 seed is received from the public for storage, assembling, or 6 cleaning.

7 (a) "Screening" means chaff, sterile florets, immeture
8 seed, weed seed, inert metter, and any other materials
9 removed from seed by any kind of cleaning or processing.

10 (7) "Seed buyer" means any person engaged in the 11 business of buying agricultural seed for shipment, cleaning, 12 processing, or for resale and who does not own, control, or 13 operate a public agricultural seed warehouse. Any individual 14 employed by a "seed buyer" is not included in this term.

(8) "Seed dealar" means any person who offers for
sale, sells, or barters agricultural seeds to the ultimate
consumer.

18 (9) "Seed labeler" means any person affixing labels to
19 agricultural seeds with his name and address listed as
20 required in section 3-802.2 when such seed is distributed in
21 Montana.

(10) "Seed processing plant" means any place of
 Dusiness that repackages, cleans, blends, treats, or
 otherwise manipulates agricultural seeds.

25 (11) "Seed warehouseman" means any person owning.

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L controlling, or operating a public agricultural seed
2 warehouse.

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3 (12) Bin-run Bin-run seed sales from one farmer to
 4 another farmer mean buyer beware and-are-exempt-from-this
 5 oct."

6 Section 2. Section 3-311, R.C.M. 1947, is amended to 7 read as follows:

8 "3-311. Licensing -- issuance -- application -- fae --9 bonding -- insurance. (1) All seed processing plants, seed 10 labelers, seed buyers, and public agricultural seed 11 warehouses shall obtain a license from the department before 12 doing business in this state; however, a Montana certified 13 seed grower, when processing or labeling certified seed from 14 his own production is not required to be licensed under this 15 section. <u>Bin-run seed sales from one farmer to another are</u> 16 exempt from this chapter.

17 (2) All licenses are issued on a fiscal--year
18 fiscal-year basis to and expire on June 30 of each year. A
19 license may cover any or as many as all four activities:
20 processing plant, seed labeler, seed buyer, and public
21 agricultural seed warehouse.

(3) Application for license is made in a manner and on
forms provided by the department. Any <u>A</u> nonresident shall
file a written power of attorney designating the secretary
of stall as the <u>his</u> agent of-such-nonresident-person, and

1 such the power of attorney shall be so prepared and in such 2 form as to render effective the jurisdiction of the courts of the state of Montana over such the nonresident applicant. 3 4 A nonresident who has a duly appointed resident agent upon 5 whom process may be serviced as provided by lawy is not required to designate the secretary of state as such his б 7 agent. The department shall be furnished with a certified copy of the designation of the secretary of state or of a 8 9 resident agent.

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

(5) Each license costs-twenty-five-dollars-(\$25) shall
cost no more than \$50 a per year. The department may by rule
establish\_license fees which bear a reasonable relationship
to the cost of administering this chapter.
(6) Failure on the part of a licensee to comply with

20 the rules issued under the authority of this section is 21 sufficient cause for cancellation of a license by the 22 department, provided the licensee is given a reasonable 23 opportunity to correct inadvertent and nonrecurring 24 deficiencies.

25 (7) The department may by rule establish bonding and

1	insurance requirements for each class of license."
2	Section 3. Section 3-313, R.C.M. 1947, is amended to
3	read as follows:
4	"3-313• Dealer's license exception fee
5	application violation. (1) No person may distribute seed
6	without obtaining a dealer's license <u>from the department</u> for
7	each place of business <del>from-the-department.</del> No license is
8	required of a person who distributes seeds only in sealed
9	packages of less than one- <u>(1) lo pound pounds</u> , packed by a
10	licensed seed labeler and bearing his name and address. Each
11	dealer's license <del>costs-ten-dollars-{\$10}-per <u>shall_cost_no</u></del>
12	more than \$20 a year and expires on June 30 of each year.
13	<u>The department may by rule establish license fees which bear</u>
14	a <u>reasonable relationship to the cost of administering this</u>
15	<u>chapter.</u> Any licensed processing plant, seed labeler, seed
16	buyer, or public agricultural seed warehouse may obtain a
17	dealer*s license without additional fee.
18	(2) Application for a dealer's license shall be made
19	in a manner and on forms provided by the department. Such
2.3	form shall equipe among other things the same of a parson

forms shall require among other things the name of a person
domiciled in this state authorized to receive and accept
service or legal notices of all kinds.

(3) Violation of provisions of this section or the
 distribution of agricultural seeds not legally labeled
 constitutes adequate grounds for cancelling a license or

L denial-on-the-part-of-the-department-to denying a license to 2 a dealer.\* Section 4. Section 3-316, R.C.M. 1947, is amended to 3 read as follows: 4 "3-316. Cancellation of license -- misdemeanor --5 enforcement proceedings. [1] The department may cancel any 5 7 license issued by it when the provisions of this act have been violated by the holder of the license. 8 9 (2) Any person convicted of violating the provisions 10 of this act or rules promulgated under the authority of this 11 act is guilty of a misdemeanor and shall be fined not less 12 than one--hundred-dollars-f\$100) or more than three-hundred 13 dollars-(\$300) for the first violationy and not less than 14 five--hundred--dollars--f\$500; or more than one-thousand dollars-(\$1,000) for each subsequent violation. 15 16 (3) Nothing in this act shall be construed as 17 requiring the department or its representatives to report 18 violations of this act when it believes that the public interest will be best served by a suitable notice of 19 warning. 20 21 (4) It is the duty of each county attorney to whom any 22 violation is reported to cause appropriate proceesings to be instituted and prosecuted in a court of competent 23 jurisdiction without delay. 24

25 (5) The department is authorized to apply for and the

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-6-

ı court to grant a temporary or permanent injunction 2 restraining any person from violating or continuing to 3 violate any of the provisions of this act or any rule 4 promulgated under the this act notwithstanding the existence 5 of other remedies at law. An injunction is issued without 5 bond.

7 (5) Any person adversely affected by an act, order, or 8 ruling made pursuant to the provisions of this act may 9 within thirty--{30} days bring action in the district court of the county or any county where the alleged violation 10 11 occurredy for trial of the issues bearing upon such act." 12 Section 5. Section 3-302.4, R.C.M. 1947, is amended to 13 read is follows:

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

18 (1) Contains contains providited noxibus weed senase: 19 (2) Contains contains restricted noxibus weed see is in 20 excess of the maximum numbers per pound as follows: 21 Common\_name Species Number sligwed 22 per pound 23

24	<del>Bodder</del> <u>dodder</u>	(Cuscuta spp+)	13
25	<del>Blue <u>blue</u> lettuce</del>	(Lactuca pulchella)	27

1	<del>Stw-Johnswort <u>Stw-Johnswort</u> (Hypericum perforatum) 27</del>
2	B <del>xeye <u>oxeye</u> daisy (Chrysanthemum leucanthemum) 90</del>
3	Spotted spotted knapweed (Centaurea maculosa) 18
4	H <del>oary <u>hoary</u> alyssum (derteroa incana) 9</del>
5	Wild wild oats (Avena fatua) 45
6	<del>Buckhorn buckhorn</del> plantain (Plantago lanceolata) 90
7	Chickweed chickweed (Stellaria spp+) 9
ម	<del>Eurly curly</del> oock (Rumex crispus) 45
9	(3) Contains contains in excess of two-per-cent-{2%}
10	or more of weed seedw <u>:</u>
11	(4) <del>Is</del> <u>is</u> offered or exposed for sale more than <del>nime</del>
12	<del>(9)</del> <u>12</u> calendar months from the last day of the month in
13	which the germination test was completed. This <del>nime(9)</del>
14	m <del>onth <u>12-month</u> limitation does not apply when seed is</del>
15	packaged in hermetically sealed containers within <del>twelve</del>
16	f12 months after harvest. The container must be
17	conspicuously labeled in not less than eight <del>(8)</del> point type
18	to indicate <u>that</u> :
19	(a) <del>That</del> the container is hermetically sealedw <u>:</u>
20	(b) Thet the seed has been preconditioned as to
21	moisture content <del>ui</del>
22	(c) <del>That</del> the germination test is valid for a pariod

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not to exceed eighteen--+18+ months from the date of the germination test for seeds offered for sale on a wholesale

basis, and for a period not to exceed thirty-six-(36) months

for seeds offered for sale at retail\*:
 (d) That the germination of vegetable seed at the time
 of packaging was equal to or above standards prescribed in
 the Federal Seed Act of August 1963 1939, 7. UsSec. 1551
 through 1610 amended October 15: 1967: with subsequent
 revisions.

7 (5) is represented in any manner to be for lawn 8 seeding purposes, unless it contains at least fifty-per-cent +50%+ pure seed of perennial fine-textured species which 9 shall be specified by rules under this act. However, grass 10 mixtures which do not contain fifty-per-cent-(50%) pure seed 11 of perennial fine-textured grasses may be sold. When these 12 13 grass mixtures are contained in packages of twenty-five-(25) pounds or less, they shall carry the statements: "Not 14 15 recommended for a fine-textured perennial turf. Satisfactory 16 for a temporary ground cover or where coarse grass is not objectionable." A definition of fine-textured varieties to 17 18 be adopted in the rules is as follows:

(a) Bivegrasses <u>bluegrasses</u>—all varieties except
Canada Bivegrass <u>bluegrass</u> (Poa compressa), Annual-Bivegrass
annual bluegrass (Poa annua)<sub>1</sub> and Rough-Bivegrass rough
bluegrass (Poa trivialis)<sub>1</sub>:

(b) <del>Chewings--Red--Fescue</del> <u>chewings red fescue</u> and all
 improved varieties\*:

25 (c) Ereeping-Red-Fescue creeping red\_fescue and all

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1	improved varieties <del>»</del> :
2	(d) <del>Bentgross <u>bentgrass</u>all varieties<u>+</u>:</del>
3	(e) Fine-textured-Ryegrasses <u>fine-textured rysgrasses</u> .
4	(6) Thelabeling-advertising-or-other-representation
5	subject-to-this-act-represents-the-seed-to-pe is represented
6	to be certified seed of any class thereof unless:
ד	(a) it has been determined by a seed certifying agency
8	that such seed <del>conformed <u>conforms</u> to standards of purity and</del>
9	identity as to kind, species {and subspecies, if
10	appropriate) <u>+</u> or variety; and
11	(b) that the seed bears an official label issued for
12	such seed by a seed certifying agency certifying that <u>the</u>
13	seed is of a specified class and a specified kind, species
14	(and subspecies, if appropriate); or variety;
15	(7) Is is labeled with a variety name for which a U.S.
16	certificate of plant variety protection has been issued or
17	applied for under the provisions of the Plant Variety
18	Protection Act (7 U.S.C. 2321 et. seq.), without the
19	authority of the owner of the variety; or is labeled with a
20	variety name but not certified by an official seed
21	certifying agency when it is a variety for which the
22	certificate or application for "protection" specifies sale
23	only as a class of certified seed; provided, that seed from
24	a certified lot may be labeled as to variety name when used
25	in a mixture by, or with approval of, the owner of the

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1 variety."

2 Section 6. Section 3-1902, R.C.M. 1947, is amended to 3 read as follows:

4 "3-1902. Definitions and specifications. The following
5 definitions and specifications are hereby adopted and made
6 legal:

7. (1) Damaged-Seeds--- Damaged seeds shall be all seeds
8 and pieces of seeds of mustard seed, which are completely
9 covered with mould mold, very green, sprouted, frosted,
10 badly ground damaged, badly weather damaged, or otherwise
11 distinctly damaged.

12 (2) Heat-Damaged-Seeds-- Heat damaged seeds shall--be
 13 <u>include</u> seeds and pieces of seeds of mustard seed which have
 14 been distinctly discolored by external heat or as a result
 15 of heating caused by fermentation.

(3) Bockage-- Dockage includes sand, dirt, weed seeds, 16 weed stems, chaff, straw, mustard seed other than tame 17 mustard, and any other foreign material, which can be 18 19 removed readily from the mustard by the use of appropriate sieves, cleaning devices, or other practical means suited to 20 21 separate the foreign material present, also including 22 undeveloped, shriveled, and small pieces of mustard seeds 23 removed in properly separating the foreign material, which 24 cannot be recovered by properly rescreening or recleaning. The quantity of dockage shall be calculated in terms of 25

1 percentage. When less than one-half-per-cent-{1/2\*} 1/2\_of 1% it shall be disregarded. The percentage of dockage so 2 determined and statedy shall be added to the grade З 4 designation. Dockage is to be calculated by the one-half-per cent--(1/2%) 1/2 of 1%, that is to say 0% to 0.4% will be 5 designated as no dockage, 0.5% to 0.9% will be designated as 6 7 1/2% dockage, 1% to 1.4% will be designated as 1% dockage, 8 1.5% to 1.9% will be designated as 1 1/2% dockage, and so 9 on.

10 (4) Foreign--Haterial--Other--Than--Dockage-- Foreign material other than dockage shall--include includes all 11 matter other than tame cultivated mustard seed, which is not 12 separated in the proper determination of dockage; however, 13 rapeseed, common wild mustards, and other seeds that oland 14 15 with class 2 and class 3 mustard seed, and thus are not readily identified, and the total of which is not in excess 16 17 of two--and--one-half--per--cent--(2 1/2%), shall not be 18 considered foreign material, and shall not be considered in 19 grading said such classes of mustard seed. 20 (5) Basis-of--Determination+ Each determination of

21 dockage, temperature, <u>moisture</u> odor<u></u> and live weevil or 22 other insects injurious to stored mustard seed<del>v</del> shall be 23 upon the basis of the seed as a whole. <del>All-other</del> 24 determinations-shall-be-upon-the-basis-of-the-seed-when-free 25 from-dockagev

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

3 (6)(7) Percentages---of---Moisture-- Percentage of 4 moisture shall be that ascertained by use of the equipment 5 and procedure prescribed by the Montana department of 6 agriculture.

7 (7)(B) Percentage-of-Bockage-- Percentage of dockage
 8 shall be that ascertained by use of the equipment and
 9 procedure prescribed by the Montana department of
 10 agriculture.

11 (8)(9) Test--Weight--Per--Bushel-- The test weight per 12 bushel shall be the weight per Winchester winchester bushel 13 as determined by the testing apparatus and the method of use 14 thereof described in Bulletin 1065 U-S-D-A. dated May 18, 15 1922, or as determined by any device and method which give 16 equivalent results in the determination of test weight per 17 bushel.

13 (9)(10) All-Other-Determinations-- The percentage of 19 damage, heat damage, sound cultivated mustard seed, and 20 foreign material and determinations of all other factors not 21 otherwise provided for shall be on the basis of a portion 22 cut from the original sample and separated by hand picking.\*\* 23 Section 7. Section 3-1907, R.C.M. 1947, is amended to 24 read as follows:

25 #3-1907. Penalty. Anyone violating any of the terms of

this act shall upon conviction be guilty of a misdemeanor and shall be fined not less than twenty-five--dollars (\$25\*80) nor or more than one-hundred-dollars-(\$100\*00)." Section 8. Section 3-1908, R.C.M. 1947, is amended to

read as follows:

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\*3-1903. License and bond for persons contracting for 6 purchase of mustard seed -- when required -- deposit of fees 7 8 -- revocation of licenses. (1) All persons. firms. copartnerships partnerships, corporations, and associations 9 engaging in the business of contracting in advance of 10 harvesting for the purchase of mustard seed crops to be paid 11 12 for on delivery of the crops shall, before March 1 of each 13 year, pay to the state treasurer a license fee of ten 14 dollars---(\$10)+ and shall, before March 1 of each year, give 15 a bond, with sureties approved by the department, in an 16 amount the department may require but not less than ten 17 thousand dollars (\$10,000). The bong shall be conditioned upon the payment for the contracted seed at the price 18 19 specified in the contracty and upon the payment of the license fee. Upon the approval of the bond, the department 20 21 shall issue the license for a period of one-(1) year.

(2) A person who begins the business described in
subsection (1) of this section after Narch 1 of any year
shall pay the license fee and furnish the bond before
engaging in the business.

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1 (3) A licensee under this section shall, at the request of the department, report the amount of seed 2 contracted. 3 4 (4) All funds collected from license fees shall be deposited by the department with the state 'treasurer for 5 6 credit to the general fund. 7 (5) The department may revoke for cause any license 8 issued under this section."

-End-

# STATE OF MONTANA

REQUEST NO. \_\_\_\_\_\_164-77

# FISCAL NOTE

Form BD-15

In (	mpliance with a written request received <u>January 24</u> , 19 <u>77</u> , there is hereby submitted a Fiscal N	ote
for	Senate Bill 194 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.	
Bac	ground information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to mem	bers
of ·	e Legislature upon request.	

# DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 194 increases the maximum the Department of Agriculture can charge for seed warehouse licenses and provides authority to adjust fees through the Administrative Procedures Act rather than legislative action.

## **ASSUMPTIONS:**

- 1. The Department will not increase seed warehouse licenses during the 1979 biennium.
- 2. The purpose of this bill is to secure authority to adjust fees through the Administrative Procedures Act rather than legislative action.

FISCAL IMPACT:

None.

Rule Ľ BUDGET DIRECTOR Office of Budget and Program Planning

Date: \_\_\_\_\_

Approved by Committee on Agriculture Livestock & Irrigation enster BILL NO. 194 L INTRODUCED BY Qurgeson 2 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE З 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL 5 REVISIONS OF LAWS RELATING TO SEED WAREHOUSES; AMENDING 6 7 SECTIONS 3-310. 3-311. 3-313. 3-316. 3-802.4. 3-1902. 3-1907, AND 3-1908, R.C.M. 1947." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 3-310, R.C.M. 1947, is amended to 11 12 read as follows: 13 "3-310. Definitions. When used in this act the 14 following definitions apply: 15 (1) "Department" means the department of agriculture. (2) "Agricultural seed" means the seeds of grass+ 15 17 forage, cereal, and fiber crops and any other kinds of seeds 18 commonly recognized within this state as agricultural seedsy and includes lawn seeds and mixtures of seeds. 19 20 (3) "Montana certified seed grower" means a member of 21 an authorized Montana seed certifying agency who has 22 consented to increase produce seed under the rules for 23 certified classes of seed, with respect to the maintenance of genetic purity and variety identity, set forth by the 24 25 certifying agency.

45th Legislature

3 (5) "Public agricultural seed warehouse" means and includes any warehouse or structure in which agricultural 4 5 seed is received from the public for storage, assembling, or cleaning. 6 (6) "Screening" means chaff, sterile florets, immature 7 8 seed, weed seed, inert matter, and any other materials removed from seed by any kind of cleaning or processing. 9 10 (7) "Seed buyer" means any person engaged in the 11 business of buying agricultural seed for shipment, cleaning, 12 processing, or for resale and who does not own, control, or operate a public agricultural seed warehouse. Any individual 13 employed by a "seed buyer" is not included in this term. 14 15 (8) "Seed dealer" means any person who offers for sale, sells, or barters agricultural seeds to the ultimate 16 17 consumer. 18 (9) "Seed labeler" means any person affixing labels to 19 agricultural seeds with his name and address listed as 20 required in section 3-802.2 when such seed is distributed in 21 Montana. 22 (10) "Seed processing plant" means any place of 23 business that repackages, cleans, blends, treats, or 24 otherwise manipulates agricultural seeds.

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23 forms provided by the department. Any <u>A</u> nonresident shall
24 file a written power of attorney designating the secretary
25 of state as the <u>his</u> agent of-such-nonresident-person, and

such the power of attorney shall be so prepared and in such 1 form as to render effective the jurisdiction of the courts 2 of the state of Montana over such the nonresident applicant. 3 A nonresident who has a duly appointed resident agent upon 4 5 whom process may be serviced as provided by lawy is not required to designate the secretary of state as such his 6 7 agent. The department shall be furnished with a certified 8 copy of the designation of the secretary of state or of a 9 resident agent.

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16 cost no more than \$50 a per year. The department may by rule
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1 insurance requirements for each class of license." z Section 3. Section 3-313, R.C.M. 1947, is amended to 3 read as follows: 4 "3-313. Dealer's license -- exception -- fee -application -- violation. (1) No person may distribute seed 5 without obtaining a dealer's license from the department for ь each place of business from the department. No license is 7 8 required of a person who distributes seeds only in sealed 9 packages of less than one-fth 10 pound pounds, packed by a 10 licensed seed labeler and bearing his name and address. Each 11 dealer's license costs-ten-dollars-f\$101-per shall\_cost\_no more than \$20 a year and expires on June 30 of each year. 12 13 The department way by rule establish license fees which bear 14 a reasonable relationship to the cost of administering this 15 chapter. Any licensed processing plant, seed labeler, seed 16 buyer, or public agricultural seed warehouse may obtain a 17 dealer's license without additional fee.

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3 \*3-316. Cancellation of license -- misdemeanor -6 enforcement proceedings. (1) The department may cancel any
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8 been violated by the holder of the license.

(2) Any person convicted of violating the provisions 9 of this act or rules promulgated under the authority of this 10 11 act is guilty of a misdemeanor and shall be fined not less 12 than one--hundred-dollars-(\$100) or more than three-hundred 13 dollars-(\$300) for the first violation, and not less than 14 five--hundred--dollars--(\$500) or more than one-thousand dollars-{\$1,000} for each subsequent violation. 15 16 (3) Nothing in this act shall be construed as 17 requiring the department or its representatives to report

18 violations of this act when it pelieves that the public 19 interest will be best served by a suitable notice of 20 warning.

(4) It is the duty of each county attorney to whom any
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court 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
 promulgated under the this act notwithstanding the existence
 of other remedies at law. An injunction is issued without
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 (1) Contains contains prohibited noxious weed seeds in

 19
 (2) Contains contains restricted noxious weed seeds in

 20
 excess of the maximum numbers per pound as follows:

 21
 Common\_name
 Species

 22
 per pound

 23
 24

24	Bodder <u>dodder</u>	(Cuscuta spp•)	18
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7	Enickweed <u>chickweed</u> (Stellaria spp.) 9
8	<del>Eurly curly</del> dock (Rumex crispus) 45
9	(3) Contains contains in excess of two-per-cent-(2%)
10	or more of weed seedw <u>*</u>
11	(4) is is offered or exposed for sale more than nine
12	12 calendar wonths from the last day of the wonth in
13	which the germination test was completed. This nine(9)
14	month <u>12-month</u> limitation does not apply when seed is
15	packaged in hermetically sealed containers within twelve
16	<pre>tl2t months after harvest. The container must be</pre>
17	conspicuously labeled in not less than eight <del>(0)</del> point type
18	to indicate <u>that</u> :
19	(a) That the container is hermetically sealed.
20	(b) That the seed has been preconditioned as to

20 (b) That the seed has been preconditioned as to
21 moisture contentwi

(c) That the germination test is valid for a period
not to exceed eighteen--{18} months from the date of the
germination test for seeds offered for sale on a wholesale
basis, and for a period not to exceed thirty-six-{36} months

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for seeds offered for sale at retail\*:
 (d) That the germination of vegetable seed at the time
 of packaging was equal to or above standards prescribed in
 the Federal Seed Act of August ±963 1939, 7. U.S.C. 1551
 through 1610 amended October 15: 1967: with subsequent
 revisions.

7 (5) is represented in any manner to be for lawn seeding purposes, unless it contains at least fifty-per-cent 8 q +50% pure seed of perennial fine-textured species which 10 shall be specified by rules under this act. However, grass 11 mixtures which do not contain fifty-per-cent-(50%) pure seed 12 of perennial fine-textured grasses may be sold. When these grass mixtures are contained in packages of twenty-five-{25} 13 pounds or less, they shall carry the statements: "Not 14 recommended for a fine-textured perennial turf. Satisfactory 15 for a temporary ground cover or where coarse grass is not 16 objectionable." A definition of fine-textured variaties to 17 be adopted in the rules is as follows: 18

(a) Bluegrasses <u>bluegrasses</u>—all varieties except
Canada Bluegrass <u>bluegrass</u> (Poa compressa), Annual-Bluegrass
annual bluegrass (Poa annua), and Rough—Bluegrass rough
bluegrass (Poa trivialis).

(b) Enewings--Red--Fescue chewings\_red\_fescue and all
 improved varietiesw:

25 (c) Greeping-Red-Fescue creeping red\_fescue and all

# improved varieties\*; (d) Bentgrass bentgrass--all varieties\*; (e) Fine-textured-Ryegrasses fine-textured ryegrasses\* (6) The--labeling\*-advertising-or-other-representation subject-to-this-act-represents-the-seed-to-be is represented to be certified seed of any class thereof unless:

7 (a) it has been determined by a seed certifying agency
8 that such seed eonformed conforms to standards of purity and
9 identity as to kind, species (and subspecies, if
10 appropriate), or variety; and
11 (b) that the seed bears an official label issued for
12 such seed by a seed certifying agency certifying that the

- 13 seed is of a specified class and a specified kind, species
- 14 (and subspecies, if appropriate) t or variety;

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

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l variety."

2 Section 6. Section 3-1902, R.C.M. 1947, is amended to 3 read as follows:

4 "3-1902. Definitions and specifications. The following
5 definitions and specifications are hereby adopted and made
6 legal:

7. (1) Demaged-Seeds-- Damaged seeds shall be all seeds
8 and pieces of seeds of mustard seed, which are completely
9 covered with mould mold, very green, sprouted, frosted,
10 badly ground damaged, badly weather damaged, or otherwise
11 distinctly damaged.

12 (2) Heat-Bomaged-Seeds-- Heat damaged seeds shall-be
 13 include seeds and pieces of seeds of mustard seed which have
 14 been distinctly discolored by external heat or as a result
 15 of heating caused by fermentation.

(3) Bockage-- Dockage includes sand, dirt, weed seeds, 16 weed stems, chaff, straw, mustard seed other than tame 17 18 mustard, and any other foreign material, which can be 19 removed readily from the mustard by the use of appropriate 20 sieves, cleaning devices, or other practical means suited to separate the foreign material present, also including 21 22 undeveloped, shriveled, and small pieces of mustard seeds 23 removed in properly separating the foreign material, which cannot be recovered by properly rescreening or recleaning. 24 25 The quantity of dockage shall be calculated in terms of

percentage. When less than one-half-per-cent-fi/2% 1/2\_of 1 1% it shall be disregarded. The percentage of dockage so 2 determined and statedy shall be added to the grade 3 4 designation. Dockage is to be calculated by the one-half-per 5 cent--+1/2%) 1/2\_of\_1%, that is to say 0% to 0.4% will be 6 designated as no dockage, 0.5% to 0.9% will be designated as 1/2% dockage, 1% to 1.4% will be designated as 1% dockage, 7 8 1.5% to 1.9% will be designated as 1 1/2% dockage, and so 9 on.

10 (4) Foreign--Material--Other--Than--Dockage-- Foreign material other than dockage shall--include includes all 11 matter other than tame cultivated mustard seed, which is not 12 separated in the proper determination of dockage; however, 13 14 rapeseed, common wild mustards, and other seeds that pland with class 2 and class 3 mustard seed, and thus are not 15 16 readily identified, and the total of which is not in excess 17 of two--and--one-half--per--cent--f2 1/2% shall not be 18 considered foreign material, and shall not be considered in 19 grading soid such classes of mustard seed.

20 <u>(5)</u> Basis-of--Determination: Each determination of 21 dockage, temperature, <u>moistures</u> odor<u>s</u> and live weevil or 22 other insects injurious to stored mustard seedy shall be 23 upon the basis of the seed as a whole. <del>All--other</del> 24 <u>determinations-shall-be-upon-the-basis-of-the-seed-when-free</u> 25 from-dockage

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

3 (6)(?) Percentages---of---Noisture-- Percentage of 4 moisture shall be that ascertained by use of the equipment 5 and procedure prescribed by the Montana department of 6 apriculture.

7 (77)(8) Percentage-of-Dockage-- Percentage of dockage 8 shall be that ascertained by use of the equipment and 9 procedure prescribed by the Montana department of 10 agriculture.

11 (87(9) Test--Weight-Per-Bushel-- The test weight per 12 bushel shall be the weight per Winchester winchester bushel 13 as determined by the testing apparatus and the method of use 14 thereof described in Bulletin 1065 U.S.D.A. dated May 18, 15 1922, or as determined by any device and method which give 16 equivalent results in the determination of test weight per 17 bushel.

13 (9)(10) All-Other-Determinations-- The percentage of 19 damage, heat damage, sound cultivated mustard seed, and 20 foreign material and determinations of all other factors not 21 otherwise provided for shall be on the basis of a portion 22 cut from the original sample and separated by hand picking." 23 Section 7. Section 3-1907, R.C.M. 1947, is amended to 24 read as follows:

25 #3-1907. Penalty. Anyone violating any of the terms of

1 this act shall upon conviction be guilty of a misdemeanor
2 and shall be fined not less than twenty-five--dollars
3 t\$25+00+ nor or more than one-hundred-dollars-t\$100+00+."

Section 8. Section 3-1908, R.C.M. 1947, is amended to
read as follows:

\*3-1903. License and bond for persons contracting for 6 purchase of mustard seed -- when required -- deposit of fees 7 -- revocation of licenses. (1) All persons, firms, a copartnerships partnerships, corporations, and associations 9 10 engaging in the business of contracting in advance of harvesting for the purchase of mustard seed crops to be paid 11 12 for on delivery of the crops shall, before March 1 of each year, pay to the state treasurer a license fee of ten 13 dollars--+\$101y and shall, before March 1 of each year, give 14 a bond, with sureties approved by the department, in an 15 amount the department may require but not less than ten 16 17 thousend-dollars-{\$10,000}. The bond shall be conditioned 18 upon the payment for the contracted seed at the price 19 specified in the contracty and upon the payment of the 20 license fee. Upon the approval of the bond, the department 21 shall issue the license for a period of one-fly year.

(2) A person who begins the business described in
subsection (1) of this section after March 1 of any year
shall pay the license fee and furnish the bond before
engaging in the business.

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1(3) A licensee under this section shall, at the2request of the department, report the amount of seed3contracted.4(4) All funds collected from license fees shall be5deposited by the department with the state treasurer for

6 credit to the general fund.

7 (5) The department may revoke for cause any license

8 issued under this section.\*

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Senster BILL NO. 194 1 INTRODUCED BY Qergeam 2 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL 5 REVISIONS OF LAWS RELATING TO SEED WAREHOUSES; AMENDING 6 7 SECTIONS 3-310, 3-311, 3-313, 3-316, 3-802.4, 3-1902, 3-1907, AND 3-1908, R.C.M. 1947." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 3-310, R.C.N. 1947, is amended to 12 read as follows: 13 "3-310. Definitions. When used in this act the 14 following definitions apply: 15 (1) "Department" means the department of agriculture. 15 (2) "Agricultural seed" means the seeds of grass. 17 forage, cereal, and fiber crops and any other kinds of seeds 18 commonly recognized within this state as agricultural seedsy and includes lawn seeds and mixtures of seeds. 19 20 (3) "Montana certified seed grower" means a member of 21 an authorized Montana seed certifying agency who has 22 consented to increase produce seed under the rules for 23 certified classes of seed, with respect to the maintenance of genetic purity and variety identity, set forth by the 24 25 certifying agency.

There are no changes in  $\frac{5B/944}{1000}$ , and due to length will not be rerun. Please refer to yelfow copy for complete text.

THIRD READING

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

3 (5) "Public agricultural seed warehouse" means and
 includes any warehouse or structure in which agricultural s
 5 seed is received from the public for storage, assembling, or
 6 cleaning.

7 (6) "Screening" means chaff, sterile florets, immature
8 seed, weed seed, inert matter, and any other materials
9 removed from seed by any kind of cleaning or processing.

10 (7) "Seed buyer" means any person engaged in the 11 business of buying agricultural seed for shipment, cleaning, 12 processing, or for resale and who does not own, control, or 13 operate a public agricultural seed warehouse. Any individual 14 employed by a "seed buyer" is not included in this term.

15 (8) "Seed dealer" means any person who offers for
16 sale, sells, or barters agricultural seeds to the ultimate
17 consumer.

(9) "Seed labeler" means any person affixing labels to
agricultural seeds with his name and address listed as
required in section 3-802.2 when such seed is distributed in
Montana.

(10) "Seed processing plant" means any place of
 business that repackages, cleans, blends, treats, or
 otherwise manipulates agricultural seeds.

25 (11) "Seed warehouseman" means any person owning.

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controlling, or operating a public agricultural seed

3 (12) Bin-run Bin-run seed sales from one farmer to
 4 another farmer mean buyer beware end-are-exempt-from-this
 5 act."

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6 Section 2. Section 3-311, R.C.M. 1947, is amended to 7 read as follows:

8 =3-311. Licensing -- issuance -- application -- fee --9 bonding -- insurance. (1) All seed processing plants, seed 10 labelers, seed buyers, and public agricultural seed warehouses shall obtain a license from the department before 11 12 doing business in this state; however, a Montana certified 13 seed grower, when processing or labeling certified seed from 14 his own production is not required to be licensed under this 15 section. Bin-run seed sales from one farmer to another are exempt from this chapter. 16

17 (2) All licenses are issued on a fiscal-year
18 fiscal-year basis to and expire on June 30 of each year. A
19 license may cover any or as many as all four activities:
20 processing plant, seed labeler, seed buyer, and public
21 agricultural seed warehouse.

22 (3) Application for license is made in a manner and on
23 forms provided by the department. Any <u>A</u> nonresident shall
24 file a written power of attorney designating the secretary
25 of state as the <u>his</u> agent of-such-nonresident-person, and

such the power of attorney shall be so prepared and in such 1 form as to render effective the jurisdiction of the courts 2 3 of the state of Nontana over such the nonresident applicant. A nonresident who has a duly appointed resident agent upon 4 5 whom process may be serviced as provided by lawy is not required to designate the secretary of state as such his 6 7 agent. The department shall be furnished with a certified R copy of the designation of the secretary of state or of a 9 resident agent.

10 (4) The department may establish by rule minimum 11 standards for equipment and handling procedures for 12 facilities to be licensed and may carry out inspections 13 during normal business hours to determine that these 14 standards are being adhered to.

15 (5) Each license costs-twenty-five-dollars-(\$25) shall
16 cost do more than \$50 a per year. The department may by rule
17 establish\_license fees which bear a reasonable relationship
18 to the cost of administering this chapter.

19 {6} Failure on the part of a licensee to comply with 20 the rules issued under the authority of this section is 21 sufficient cause for cancellation of a license by the 22 department, provided the licensee is given a reasonable 23 opportunity to correct inadvertent and nonrecurring 24 deficiencies.

25 (7) The department may by rule establish bonding and

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1	SENATE BILL ND. 194	1	(4) "P
2	INTRODUCED BY JERGESON, GALT	2	partnership,
3	BY REQUEST OF THE DEPARTMENT OF AGRICULTURE	3	(5) "P
4		4	<del>includes</del> an
5	A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL	5	seed is rece
6	REVISIONS OF LAWS RELATING TO SEED WAREHOUSES; AMENDING	6	cleaning.
7	SECTIONS 3-310, 3-311, 3-313, 3-316, 3-802.4, 3-1902,	7	(6) "S
8	3-1907, AND 3-1908, R.C.H. 1947."	8	seed, weed s
9		9	removed from
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10	(7) <b>#</b> S
11	Section 1. Section 3-310, R.C.M. 1947, is amended to	11	business of i
12	read as follows:	12	processing,
13	#3-310. Definitions. When used in this act <u>the</u>	13	operate a pu
14	following_definitions_apply:	14	employed by
15	(1) "Department" means the department of agriculture.	15	(8) <b>*</b> S
16	(2) "Agricultural seed" means the seeds of grass,	16	sale, sells,
17	forage, cereal, and fiber crops and any other kinds of seeds	17	consumer.
18	commonly recognized within this state as agricultural seedsy	18	(9) <b>"</b> S
19	and includes lawn seeds and mixtures of seeds.	19	agricultural
20	(3) "Montana certified seed grower" means a member of	20	required in
21	an authorized Montana seed certifying agency who has	21	Montana.
22	consented to <del>increase</del> produce seed under the rules for	22	(10) "S
23	certified classes of seed, with respect to the maintenance	23	business t
24	of genetic purity and variety identity, set forth by the	24	otherwise ma
25	certifying agency.	25	(11) "S

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

3 (5) "Public agricultural seed warehouse" means and
4 includes any warehouse or structure in which agricultural
5 seed is received from the public for storage, assembling, or
6 cleaning.

7 (6) "Screening" means chaff, sterile florets, immature
8 seed, weed seed, inert matter, and any other materials
9 removed from seed by any kind of cleaning or processing.

10 (7) "Seed buyer" means any person engaged in the 11 business of buying agricultural seed for shipment, cleaning, 12 processing, or for resale and who does not own, control, or 13 operate a public agricultural seed warehouse. Any individual 14 employed by a "seed buyer" is not included in this term.

15 (8) "Seed dealer" means any person who offers for
16 sale, sells, or barters agricultural seeds to the ultimate
17 consumer.

18 (9) "Seed labeler" means any person affixing labels to 19 agricultural seeds with his name and address listed as 20 required in section 3-802.2 when such seed is distributed in 21 Montana.

22 (10) "Seed processing plant" means any place of 23 business that repackages, cleans, blends, treats, or 24 otherwise manipulates agricultural seeds.

5 (11) "Seed warehouseman" means any person owning.

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# REFERENCE BILL

alan ananan menerakan kanali an arawa dalam atau dari kana dari kana dari kana dari kana dari kana dari kana da

controlling, or operating a public agricultural seed
 warehouse.

3 (12) Bin-run Bin-run seed sales from one farmer to
 4 another farmer mean buyer beware ond-ere-exempt-from-this
 5 act.\*

6 Section 2. Section 3-311, R.C.M. 1947, is amended to 7 read as follows:

#3-311. Licensing -- issuance -- application -- fee --8 9 bonding -- insurance. (1) All seed processing plants, seed labelers, seed buyers, and public agricultural seed 10 warehouses shall obtain a license from the department before 11 12 doing business in this state; however, a Montana certified seed grower, when processing or labeling certified seed from 13 his own production is not required to be licensed under this 14 15 section. Bin-run seed sales from one farmer to another are 16 exempt from this chapter.

17 (2) All licenses are issued on a fiscal-year
18 fiscal-year basis to and expire on June 30 of each year. A
19 license may cover any or as many as all four activities:
20 processing plant, seed labeler, seed buyer, and public
21 agricultural seed warehouse.

(3) Application for license is made in a manner and on
forms provided by the department. Any A nonresident shall
file a written power of attorney designating the secretary
of state as the his agent of-such-nonresident-person, and

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such the power of attorney shall be so prepared and in such 1 form as to render effective the jurisdiction of the courts 2 3 of the state of Montana over such the nonresident applicant. A nonresident who has a duly appointed resident agent upon 4 whom process may be serviced as provided by lawy is not 5 required to designate the secretary of state as such his 6 agent. The department shall be furnished with a certified 7 copy of the designation of the secretary of state or of a 8 9 resident agent. 10 (4) The department may establish by rule minimum standards for equipment and handling procedures for 11 facilities to be licensed and may carry out inspections 12

13 during normal business hours to determine that these

14 standards are being adhered to.

15 (5) Each license costs-twenty-five-dollars-(\$25) shall
16 cost no more than \$50 a per year. The department may by rule
17 establish license fees which bear a reasonable relationship
18 to the cost of administering this chapter.
19 (6) Failure on the part of a licensee to comply with
20 the rules issued under the authority of this section is

21 sufficient cause for cancellation of a license by the 22 department, provided the licensee is given a reasonable 23 opportunity to correct inadvertent and nonrecurring 24 deficiencies.

25 (7) The department may by rule establish bonding and

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insurance requirements for each class of license." 1

Section 3. Section 3-313, R.C.N. 1947, is amended to 2 read as follows: 3

\*3-313. Dealer's license -- exception -- fee --4 application -- violation. (1) No person may distribute seed 5 without obtaining a dealer's license from the department for 6 each place of business from the department. No license is 7 required of a person who distributes seeds only in sealed 8 packages of less than one-(1) 10 pound pounds, packed by a 9 licensed seed labeler and bearing his name and address. Each 10 11 dealer's license costs-ten-dellars-(\$10)-per shall cost no more than \$20 a year and expires on June 30 of each year. 12 13 The department may by rule establish license fees which bear a reasonable relationship to the cost of administering this 14 chapter, Any licensed processing plant, seed labeler, seed 15 buyer, or public agricultural seed warehouse may obtain a 16 dealer's license without additional fee. 17

(2) Application for a dealer's license shall be made 18 in a manner and on forms provided by the department. Such 19 20 forms shall require among other things the name of a person domiciled in this state authorized to receive and accept 21 service or legal notices of all kinds. 22

(3) Violation of provisions of this section or the 23 distribution of agricultural seeds not legally labeled 24 25 constitutes adequate grounds for cancelling a license or

denial-on-the-part-of-the-department-to denving a license to 1 a dealer."

3 Section 4. Section 3-316, R.C.M. 1947, is amended to read as follows: 4

5 #3-316. Cancellation of license -- misdemeanor -enforcement proceedings. (1) The department may cance) any 6 7 license issued by it when the provisions of this act have been violated by the holder of the license. R

9 (2) Any person convicted of violating the provisions of this act or rules promulgated under the authority of this 10 act is quilty of a misdemeanor and shall be fined not less 11 12 than one--hundred-dollars-(\$100) or more than three-hundred 13 dollars-(\$300) for the first violationy and not less than 14 five--hundred--dollars--f\$5001 or more than one-thousand 15 dollars-(\$1,000) for each subsequent violation.

16 (3) Nothing in this act shall be construed as requiring the department or its representatives to report 17 18 violations of this act when it believes that the public 19 interest will be best served by a suitable notice of 20 warning.

(4) It is the duty of each county attorney to whom any 21 22 violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent 23 24 jurisdiction without delay.

(5) The department is authorized to apply for and the

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court 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
 promulgated under the this act notwithstanding the existence
 of other remedies at law. An injunction is issued without
 bond.

7 (6) Any person adversely affected by an act, order, or 8 ruling made pursuant to the provisions of this act may 9 within thirty--(30) days bring action in the district court 10 of the county or any county where the alleged violation 11 occurred, for trial of the issues bearing upon such act." 12 Section 5. Section 3-802.4, R.C.M. 1947, is amended to

13 read as follows:

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

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

21	<u>Common name</u>	Species	Number <del>allowed</del>
22			per pound
23			
24	<u>abbob</u> rebbe	{Cuscuta spp+}	18
25	<del>Blue <u>blue</u> lettuce</del>	(Lactuca pulchellä)	27

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1	<del>Ste-Johnswort <u>Ste</u>-Johnswort</del> (Hypericum perforatum) 27
2	<del>Oxeye <u>oxeye</u> daisy (Chrysanthemum leucanthemum) 90</del>
3	Spotted spotted knapweed (Centaurea maculosa) 18
4	Hoary hoary alyssum (Berteroa incana) 9
5	<del>Wild</del> oats (Avena fatua) 45
6	<del>Buckhorn</del> <u>buckhorn</u> plantain (Plantago lanceolata) 90
7	Ehickweed <u>chickweed</u> (Stellaria spp.) 9
8	<del>Curly <u>curly</u> dock (Rumex crispus) 45</del>
9	(3) <del>Contains <u>contains</u> in excess of <del>two-per-cent-{</del>2%<del>}</del></del>
10	or more of weed seedw:
11	(4) is offered or exposed for sale more than nine
12	+9+ 12 calendar months from the last day of the month in
13	which the germination test was completed. This <del>nine(9)</del>
14	month <u>12-month</u> limitation does not apply when seed is
15	packaged in hermetically sealed containers within twelve
16	<pre>fl2; months after harvest. The container must be</pre>
17	conspicuously labeled in not less than eight <del>(0)</del> point type
18	to indicate <u>that</u> :
19	(a) That the container is hermetically sealedw:
20	(b) That the seed has been preconditioned as to
21	moisture content <del>u</del>
22	(c) <del>That</del> the germination test is valid for a period
23	not to exceed <del>eighteen(</del> 18 <del>)</del> months from the date of the
24	germination test for seeds offered for sale on a wholesale
25	basis, and for a period not to exceed <del>thirty-six-(</del> 36 <del>)</del> months

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1 for seeds offered for sale at retails:

2 (d) That the germination of vegetable seed at the time
3 of packaging was equal to or above standards prescribed in
4 the Federal Seed Act of August 1963 1939, 7. U.S.C. 1551
5 through 1610 amended October 15, 1967, with subsequent
6 revisions.

(5) Is is represented in any manner to be for lawn 7 seeding purposes, unless it contains at least fifty per-cent 8 +50%+ pure seed of perennial fine-textured species which 9 shall be specified by rules under this act. However, grass 10 mixtures which do not contain fifty-per-cent-(50%) pure seed 11 12 of perennial fine-textured grasses may be sold. When these orass mixtures are contained in packages of twenty-five (25) 13 pounds or less, they shall carry the statements: "Not 14 recommended for a fine-textured perennial turf. Satisfactory 15 for a temporary ground cover or where coarse grass is not 16 objectionable." A definition of fine-textured varieties to 17 be adopted in the rules is as follows: 18

19 (a) Bluegrasses bluegrasses—all varieties except
 20 Canada Bluegrass bluegrass (Poa compressa), Annual-Bluegrass
 21 annual bluegrass (Poa annua), and Rough—Bluegrass rough
 22 bluegrass (Poa trivialis), i

(b) Enewings--Red--Fescue chewings red fescue and all
 improved varieties\*:

25 (c) Ereeping Red Fescue creeping red\_fescue and all

-9-

1 improved varieties\*1

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(d) Bentgrass <u>bentgrass</u>--all varietiesu<u>:</u>

(e) Fine-textured-Ryegresses fine-textured ryegrasses.

4 (6) The--tabelingy-advertising-or-other-representation
5 subject-to-this-act-represents-the-seed-to-be is represented
6 to be certified seed of any class thereof unless:
7 (a) it has been determined by a seed certifying agency

8 that such seed conformed conforms to standards of purity and 9 identity as to kind, species (and subspecies, if 10 appropriate), or variety; and

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

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

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variety."
 Section 6. Section 3-1902, R.C.M. 1947, is amended to
 read as follows:
 "3-1902. Definitions and specifications. The following
 definitions and specifications are hereby adopted and made
 legal:
 (1) Demaged Seeds... Damaged seeds shall be all seeds

8 and pieces of seeds of mustard seed, which are completely
9 covered with mould mold, very green, sprouted, frosted,
10 badly ground damaged, badly weather damaged, or otherwise
11 distinctly damaged.

12 (2) Heat-Damaged Seeds-- Heat damaged seeds shtil--be
 13 include seeds and pieces of seeds of mustard seed which have
 14 been distinctly discolored by external heat or as a result
 15 of heating caused by fermentation.

(3) Bockege- Dockage includes sand, dirt, weed seeds, 16 17 weed stems, chaff, straw, mustard seed other than tame 18 mustard, and any other foreign material, which can be removed readily from the mustard by the use of appropriate 19 20 sieves, cleaning devices, or other practical means suited to 21 separate the foreign material present, also including undeveloped, shriveled, and small pieces of mustard seeds 22 23 removed in properly separating the foreign material, which 24 cannot be recovered by properly rescreening or recleaning. 25 The quantity of dockage shall be calculated in terms of

percentage. When less than one-half-per-cent-(1/2%) 1/2\_of 1 12 it shall be disregarded. The percentage of dockage so 2 3 determined and statedy shall be added to the grade designation. Dockage is to be calculated by the one-half-per 4 cent--(1/2%) 1/2 of 1%; that is to say 0% to 0.4% will be 5 designated as no dockage, 0.5% to 0.9% will be designated as 6 1/2% dockage, 1% to 1.4% will be designated as 1% dockage, 7 1.5% to 1.9% will be designated as 1 1/2% dockage, and so 8 9 on.

10 (4) Foreign--Material--Other--Than-Dockage-- Foreign 11 material other than dockage shall--include includes all 12 matter other than tame cultivated mustard seed, which is not 13 separated in the proper determination of dockage; however, rapeseed, common wild mustards, and other seeds that blend 14 15 with class 2 and class 3 mustard seed, and thus are not readily identified, and the total of which is not in excess 16 17 of two--and--one-half--per--cent--f2 1/22+, shall not be considered foreign material, and shall not be considered in 18 19 grading soid such classes of mustard seed. (5) Besis-of--Determination+ Each determination of

20 <u>(5)</u> Bosis-of--Betermination• Each determination of 21 dockage, temperature, <u>moisture</u> odor, and live weevil or 22 other insects injurious to stored mustard seedy shall be 23 upon the basis of the seed as a whole. <del>All--other</del> 24 determinations-shall-be-upon-the-basis-of-the-seed-when-free 25 from-dockagey

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

3 (6)(7) Percentages--of--Moisture-- Percentage of
 4 moisture shall be that ascertained by use of the equipment
 5 and procedure prescribed by the Montana department of
 6 agriculture.

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

11 (8)[9] Test-Weight-Per-Bushel-- The test weight per 12 bushel shall be the weight per Winchester winchester bushel 13 as determined by the testing apparatus and the method of use 14 thereof described in Bulletin 1065 U.S.D.A. dated May 18, 15 1922, or as determined by any device and method which give 16 equivalent results in the determination of test weight per 17 bushel.

18 (9)(10) All-Other-Determinations-- The percentage of 19 damage, heat damage, sound cultivated mustard seed, and 20 foreign material and determinations of all other factors not 21 otherwise provided for shall be on the basis of a portion 22 cut from the original sample and separated by hand picking." 23 Section 7. Section 3-1907, R.C.M. 1947, is amended to 24 read as follows:

25 **#3-1907**. Penalty. Anyone violating any of the terms of

this act shall upon conviction be guilty of a misdemeanor
 and shall be fined not less than twenty-five--dollars
 f\$25+001 nor or more than one-hundred-dollars-(\$100+000)."

Section 8. Section 3-1908, R.C.M. 1947, is amended to
read as follows:

\*3-1908. License and bond for persons contracting for 6 purchase of mustard seed --- when required --- deposit of fees 7 -- revocation of licenses. (1) All persons, firms, 8 9 copartnerships partnerships, corporations, and associations 10 engaging in the business of contracting in advance of harvesting for the purchase of mustard seed crops to be paid 11 12 for on delivery of the crops shall, before March 1 of each 13 year, pay to the state treasurer a license fee of ten 14 dellars--{\$10}, and shalls before March 1 of each year, give 15 a bond, with sureties approved by the department, in an amount the department may require but not less than ten 16 17 thousand-dollars-(\$10,000). The bond shall be conditioned upon the payment for the contracted seed at the price 18 specified in the contracty and upon the payment of the 19 20 license fee. Upon the approval of the bond, the department shall issue the license for a period of one-fly year. 21

(2) A person who begins the business described in
subsection (1) of this section after March 1 of any year
shall pay the license fee and furnish the bond before
engaging in the business.

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(3) A licensee under this section shall, at the
 request of the department, report the amount of seed
 contracted.

4 (4) All funds collected from license fees shall be

5 deposited by the department with the state treasurer for

6 credit to the general fund.

7 (5) The department may revoke for cause any license

8 issued under this section.\*

1

-End-