

1 *Senate* BILL NO. *194*
 2 INTRODUCED BY *Jerguson* *Halt*

3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
 6 REVISIONS OF LAWS RELATING TO SEED WAREHOUSES; AMENDING
 7 SECTIONS 3-310, 3-311, 3-313, 3-316, 3-802.4, 3-1902,
 8 3-1907, AND 3-1908, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 3-310, R.C.M. 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.
- 16 (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 seeds,
 19 and includes lawn seeds and mixtures of seeds.
- 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
 24 of genetic purity and variety identity, set forth by the
 25 certifying agency.

1 (4) "Person" means any individual, firm, copartnership
 2 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 barter 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.

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

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

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

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
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. 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.

22 (3) Application for license is made in a manner and on
23 forms provided by the department. Any A nonresident shall
24 file a written power of attorney designating the secretary
25 of state as ~~the~~ his 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
3 of the state of Montana over ~~such the~~ nonresident applicant.
4 A nonresident who has a duly appointed resident agent upon
5 whom process may be serviced as provided by law is not
6 required to designate the secretary of state as ~~such his~~
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.

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 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

1 insurance requirements for each class of license."

2 Section 3. Section 3-313, R.C.M. 1947, is amended to
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4 "3-313. Dealer's license -- exception -- fee --
5 application -- violation. (1) No person may distribute seed
6 without obtaining a dealer's license ~~from the department~~ for
7 each place of business ~~from the department~~. No license is
8 required of a person who distributes seeds only in sealed
9 packages of less than ~~one (1) 10 pound pounds~~, packed by a
10 licensed seed labeler and bearing his name and address. Each
11 dealer's license ~~costs ten dollars (\$10) per~~ shall cost no
12 more than \$20 a year and expires on June 30 of each year.
13 The department may 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.

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

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

1 ~~denial on the part of the department to~~ denying a license to
2 a dealer."

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

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

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 (\$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~~
15 ~~dollars (\$1,000)~~ for each subsequent violation.

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
19 interest will be best served by a suitable notice of
20 warning.

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

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

1 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
 6 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
 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 3-302.4, R.C.M. 1947, is amended to
 13 read as follows:

14 "3-302.4. Prohibitions. A person, firm, corporation,
 15 copartnership ~~partnership~~, or association may not sell or
 16 transport for use in planting in this state any
 17 agricultural, 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 allowed
		per pound
24 <u>Bodder dodder</u>	(Cuscuta spp.)	10
25 Blue <u>blue</u> lettuce	(Lactuca pulchella)	27

1 St. Johnswort <u>St. Johnswort</u> (Hypericum perforatum)	27
2 Beye <u>oxeye</u> daisy (Chrysanthemum leucanthemum)	90
3 Spotted <u>spotted</u> knapweed (Centaurea maculosa)	18
4 Hoary <u>hoary</u> alyssum (Berteroa incana)	9
5 Wild <u>wild</u> oats (Avena fatua)	45
6 Buckhorn <u>buckhorn</u> plantain (Plantago lanceolata)	90
7 Chickweed <u>chickweed</u> (Stellaria spp.)	9
8 Curly <u>curly</u> dock (Rumex crispus)	45
9 (3) Contains <u>contains</u> in excess of two-per-cent-(2%)	
10 or more of weed seeds;	
11 (4) is <u>is</u> offered or exposed for sale more than nine	
12 (9) <u>12</u> calendar months from the last day of the month 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 (12) months after harvest. The container must be	
17 conspicuously labeled in not less than eight (8) point type	
18 to indicate that :	
19 (a) That the container is hermetically sealed;	
20 (b) That the seed has been preconditioned as to	
21 moisture content;	
22 (c) That the germination test is valid for a period	
23 not to exceed eighteen--(18) 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 thirty-six-(36) months	

1 for seeds offered for sale at retail;ⁱ

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.

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

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

23 (b) ~~Ehewings--Red--Fescue~~ ehewings_red_fescue and all
24 improved varieties;ⁱ

25 (c) ~~Creeping-Red-Fescue~~ creeping_red_fescue and all

1 improved varieties;ⁱ

2 (d) ~~Bentgrass~~ bentgrass--all varieties;ⁱ

3 (e) ~~Fine-textured-Ryegrasses~~ fine-textured_ryegrasses.

4 (6) ~~The--labeling-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),ⁱ 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),ⁱ or variety;ⁱ

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

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 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.

16 (3) ~~Dockage~~— Dockage includes sand, dirt, weed seeds,
17 weed stems, chaff, straw, mustard seed other than tame
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
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.
25 The quantity of dockage shall be calculated in terms of

1 percentage. When less than ~~one-half-per-cent-(1/2%)~~ 1/2 of
2 1% it shall be disregarded. The percentage of dockage so
3 determined and stated, shall be added to the grade
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
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-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,
14 rapeseed, common wild mustards, and other seeds that blend
15 with class 2 and class 3 mustard seed, and thus are not
16 readily identified, and the total of which is not in excess
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, moisture, odor, and live weevil or
22 other insects injurious to stored mustard seed, shall be
23 upon the basis of the seed as a whole. ~~At--other~~
24 ~~determinations--shall--be--upon--the--basis--of--the--seed--when--free~~
25 ~~from--dockage~~

1 ~~(5)(6)~~ Percentages-- Percentages, except in the case
2 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-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 ~~(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

1 this act shall upon conviction be guilty of a misdemeanor
2 and shall be fined not less than ~~twenty-five--dollars~~
3 ~~(\$25.00)~~ nor ~~or~~ more than ~~one-hundred-dollars--(\$100.00)~~."

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

6 "3-1908. License and bond for persons contracting for
7 purchase of mustard seed -- when required -- deposit of fees
8 -- revocation of licenses. (1) All persons, firms,
9 ~~copartnerships~~ ~~partnerships~~, corporations, and associations
10 engaging in the business of contracting in advance of
11 harvesting for the purchase of mustard seed crops to be paid
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 bond shall be conditioned
18 upon the payment for the contracted seed at the price
19 specified in the contract, 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-(1)~~ year.

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

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

-End-

STATE OF MONTANA

REQUEST NO. 164-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 194 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 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.

Richard L. Dray
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1-26-77

Approved by Committee
on Agriculture Livestock
& Irrigation

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1 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
 6 bond.

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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 copartnership partnership, 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 allowed
		per pound
24 Red <u>red</u> dodder	(Cuscuta spp.)	18
25 Blue <u>blue</u> lettuce	(Lactuca pulchella)	27

1 St. Johnswort <u>St. Johnswort</u> (Hypericum perforatum)	27
2 Oxeye <u>oxeye</u> daisy (Chrysanthemum leucanthemum)	90
3 Spotted <u>spotted</u> knapweed (Centaurea maculosa)	18
4 Hoary <u>hoary</u> alyssum (Berteroa incana)	9
5 Wild <u>wild</u> oats (Avena fatua)	45
6 Buckhorn <u>buckhorn</u> plantain (Plantago lanceolata)	90
7 Chickweed <u>chickweed</u> (Stellaria spp.)	9
8 Curly <u>curly</u> dock (Rumex crispus)	45

9 (3) ~~Contains~~ contains in excess of ~~two-per-cent--(2%)~~
 10 or more of weed seeds;

11 (4) ~~is~~ 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 ~~nine--(9)~~
 14 ~~month~~ 12-month limitation does not apply when seed is
 15 packaged in hermetically sealed containers within ~~twelve~~
 16 ~~(12)~~ 12 months after harvest. The container must be
 17 conspicuously labeled in not less than eight ~~(8)~~ point type
 18 to indicate ~~that~~:

19 (a) ~~That~~ the container is hermetically sealed;

20 (b) ~~That~~ the seed has been preconditioned as to
 21 moisture content;

22 (c) ~~That~~ the germination test is valid for a period
 23 not to exceed ~~eighteen--(18)~~ 18 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 ~~thirty-six--(36)~~ 36 months

1 for seeds offered for sale at retail;

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.

7 (5) ~~is~~ is represented in any manner to be for lawn
8 seeding purposes, unless it contains at least ~~fifty-per-cent~~
9 ~~(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
13 grass mixtures are contained in packages of ~~twenty-five (25)~~
14 pounds or less, they shall carry the statements: "Not
15 recommended for a fine-textured perennial turf. Satisfactory
16 for a temporary ground cover or where coarse grass is not
17 objectionable." A definition of fine-textured varieties to
18 be adopted in the rules is as follows:

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);

23 (b) ~~Chewings--Red--Fescue~~ chewings_red_fescue and all
24 improved varieties;

25 (c) ~~Creeping-Red-Fescue~~ creeping_red_fescue and all

1 improved varieties;

2 (d) ~~Bentgrass~~ bentgrass--all varieties;

3 (e) ~~Fine-textured-Ryegrasses~~ fine-textured ryegrasses.

4 (6) ~~The--labeling--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

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), 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

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 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.

16 (3) ~~Dockage--~~ Dockage includes sand, dirt, weed seeds,
17 weed stems, chaff, straw, mustard seed other than tame
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
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.
25 The quantity of dockage shall be calculated in terms of

1 percentage. When less than ~~one-half-per-cent--(1/2%)~~ 1/2 of
2 1% it shall be disregarded. The percentage of dockage so
3 determined and stated, shall be added to the grade
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
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--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,
14 rapeseed, common wild mustards, and other seeds that blend
15 with class 2 and class 3 mustard seed, and thus are not
16 readily identified, and the total of which is not in excess
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 ~~and such~~ such classes of mustard seed.

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

1 ~~{5}{6}~~ Percentages-- Percentages, except in the case
2 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-Dockage-- Percentage of dockage
8 shall be that ascertained by use of the equipment and
9 procedure prescribed by the Montana departaent 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}~~ ~~***Other-Determinations--~~ The percentage of
19 damage, heat damage, sound cultivated mustard seeds, 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 ~~{25.00}~~ nor or more than ~~one-hundred-dollars-{100.00}~~."

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

6 "3-1908. License and bond for persons contracting for
7 purchase of mustard seed -- when required -- deposit of fees
8 -- revocation of licenses. (1) All persons, firms,
9 ~~copartnerships~~ partnerships, corporations, and associations
10 engaging in the business of contracting in advance of
11 harvesting for the purchase of mustard seed crops to be paid
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 bond shall be conditioned
18 upon the payment for the contracted seed at the price
19 specified in the contract, 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-{1}~~ year.

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

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

-End-

1 *Senate* BILL NO. *194*
 2 INTRODUCED BY *Jerguson Palt*
 3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
 6 REVISIONS OF LAWS RELATING TO SEED WAREHOUSES; AMENDING
 7 SECTIONS 3-310, 3-311, 3-313, 3-316, 3-802.4, 3-1902,
 8 3-1907, AND 3-1908, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 3-310, R.C.M. 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.
- 16 (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 seeds,
 19 and includes lawn seeds and mixtures of seeds.
- 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
 24 of genetic purity and variety identity, set forth by the
 25 certifying agency.

1 (4) "Person" means any individual, firm, ~~copartnership~~
 2 ~~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 barter 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.

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

There are no changes in *SB194*, and due to length will not
 be rerun. Please refer to yellow copy for complete text.

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

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

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
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. 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.

22 (3) Application for license is made in a manner and on
23 forms provided by the department. Any A nonresident shall
24 file a written power of attorney designating the secretary
25 of state as the his 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
3 of the state of Montana over ~~such the~~ nonresident applicant.
4 A nonresident who has a duly appointed resident agent upon
5 whom process may be serviced as provided by law is not
6 required to designate the secretary of state as ~~such his~~
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.

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 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

SENATE BILL NO. 194

INTRODUCED BY JERGESON, GALT

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL REVISIONS OF LAWS RELATING TO SEED WAREHOUSES; AMENDING SECTIONS 3-310, 3-311, 3-313, 3-316, 3-802.4, 3-1902, 3-1907, AND 3-1908, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-310, R.C.M. 1947, is amended to read as follows:

"3-310. Definitions. When used in this act the 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.

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

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

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

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

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

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

(11) "Seed warehouseman" means any person owning,

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

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

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
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. 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.

22 (3) Application for license is made in a manner and on
23 forms provided by the department. ~~Any~~ A nonresident shall
24 file a written power of attorney designating the secretary
25 of state as the his 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
3 of the state of Montana over ~~such the~~ nonresident applicant.
4 A nonresident who has a duly appointed resident agent upon
5 whom process may be serviced as provided by law is not
6 required to designate the secretary of state as ~~such his~~
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.

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 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

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 from the department for
7 each place of business ~~from the department~~. No license is
8 required of a person who distributes seeds only in sealed
9 packages of less than ~~one (1) 10 pound pounds~~, packed by a
10 licensed seed labeler and bearing his name and address. Each
11 dealer's license ~~costs ten dollars (\$10) per~~ shall cost no
12 more than \$20 a year and expires on June 30 of each year.
13 The department may 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.

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

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

1 ~~denial on the part of the department to denying a~~ license to
2 a dealer."

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

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

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 (\$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~~
15 ~~dollars (\$1,000)~~ for each subsequent violation.

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
19 interest will be best served by a suitable notice of
20 warning.

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

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

1 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
 6 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 copartnership, ~~partnership,~~ 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 allowed
		per pound
24 Bedder <u>dodder</u>	{Cuscuta spp.}	18
25 Blue <u>blue</u> lettuce	{Lactuca pulchella}	27

1 St. Johnswort <u>St. Johnswort</u> (Hypericum perforatum)	27
2 Oxeye <u>oxeye</u> daisy (Chrysanthemum leucanthemum)	90
3 Spotted <u>spotted</u> knapweed (Centaurea maculosa)	18
4 Hoary <u>hoary</u> alyssum (Berteroa incana)	9
5 Wild <u>wild</u> oats (Avena fatua)	45
6 Buckhorn <u>buckhorn</u> plantain (Plantago lanceolata)	90
7 Chickweed <u>chickweed</u> (Stellaria spp.)	9
8 Early <u>curly</u> dock (Rumex crispus)	45

9 (3) ~~Contains~~ contains in excess of two-per-cent-{2%}
 10 or more of weed seeds;

11 (4) ~~It 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 ~~nine--{9}~~
 14 month ~~12-month~~ limitation does not apply when seed is
 15 packaged in hermetically sealed containers within ~~twelve~~
 16 {12} months after harvest. The container must be
 17 conspicuously labeled in not less than eight {8} point type
 18 to indicate ~~that~~:

- 19 (a) ~~That~~ the container is hermetically sealed;
- 20 (b) ~~That~~ the seed has been preconditioned as to
 21 moisture content;
- 22 (c) ~~That~~ the germination test is valid for a period
 23 not to exceed ~~eighteen--{18}~~ 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 ~~thirty-six--{36}~~ months

1 for seeds offered for sale at retail;

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.

7 (5) ~~is~~ is represented in any manner to be for lawn
8 seeding purposes, unless it contains at least ~~fifty-per-cent~~
9 ~~{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
13 grass mixtures are contained in packages of ~~twenty-five~~ ~~{25}~~
14 pounds or less, they shall carry the statements: "Not
15 recommended for a fine-textured perennial turf. Satisfactory
16 for a temporary ground cover or where coarse grass is not
17 objectionable." A definition of fine-textured varieties to
18 be adopted in the rules is as follows:

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*);

23 (b) ~~Chevings--Red--Fescue~~ chevings red fescue and all
24 improved varieties;

25 (c) ~~Creeping-Red-Fescue~~ creeping red fescue and all

1 improved varieties;

2 (d) ~~Bentgrass~~ bentgrass--all varieties;

3 (e) ~~Fine-textured-Ryegrasses~~ fine-textured ryegrasses.

4 (6) ~~The--labeling, 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

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), 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

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 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.

16 (3) ~~Dockage~~— Dockage includes sand, dirt, weed seeds,
17 weed stems, chaff, straw, mustard seed other than tame
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
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.
25 The quantity of dockage shall be calculated in terms of

1 percentage. When less than ~~one-half-per-cent (1/2%)~~ 1/2 of
2 1% it shall be disregarded. The percentage of dockage so
3 determined and stated, shall be added to the grade
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
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 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,
14 rapeseed, common wild mustards, and other seeds that blend
15 with class 2 and class 3 mustard seed, and thus are not
16 readily identified, and the total of which is not in excess
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, ~~moisture~~, odor, and live weevil or
22 other insects injurious to stored mustard seed, shall be
23 upon the basis of the seed as a whole. ~~It other~~
24 ~~determinations shall be upon the basis of the seed when free~~
25 ~~from dockage.~~

1 ~~(5)(6)~~ Percentages-- Percentages, except in the case
2 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--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 ~~(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

1 this act shall upon conviction be guilty of a misdemeanor
2 and shall be fined not less than ~~twenty-five-dollars~~
3 ~~(\$25.00)~~ nor or more than ~~one-hundred-dollars-(\$100.00)~~."

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

6 *3-1908. License and bond for persons contracting for
7 purchase of mustard seed -- when required -- deposit of fees
8 -- revocation of licenses. (1) All persons, firms,
9 ~~copartnerships~~ partnerships, corporations, and associations
10 engaging in the business of contracting in advance of
11 harvesting for the purchase of mustard seed crops to be paid
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 bond shall be conditioned
18 upon the payment for the contracted seed at the price
19 specified in the contract, 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-1~~ year.

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

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

-End-