

CHAPTER NO. 230.

HOUSE BILL NO. 589

INTRODUCED BY MANUEL

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
February 15, 1979	Committee recommend bill do pass as amended. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
March 8, 1979	Committee recommend bill be concurred in and be placed on Consent Calendar. Report adopted.
March 10, 1979	Consent Calendar discussion.
March 12, 1979	Consent Calendar concurred in.

IN THE HOUSE.

March 13, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN
 6 INCREASE IN LICENSING AND REGISTRATION FEES OF
 7 PESTICIDE-RELATED ACTIVITIES; AMENDING SECTIONS 80-8-201,
 8 80-8-203, 80-8-204, AND 80-8-207, MCA."

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

11 Section 1. Section 80-8-201, MCA, is amended to read:

12 "80-8-201. Registration. (1) Every pesticide
 13 distributed, sold, or offered for sale within this state or
 14 delivered for transportation or transported in intrastate
 15 commerce or between points within this state shall be
 16 registered with the department. The registration shall be
 17 renewed annually by the manufacturer, formulator, or
 18 distributor of the pesticide. The department shall register
 19 all approved pesticides and those registered are subject to
 20 registration fees and all other provisions of this chapter.
 21 All registrations of pesticides expire on December 31
 22 following the date of issuance unless otherwise terminated.

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

25 (a) the name and address of the applicant and the name

1 and address of the person whose name will appear on the
 2 label, if other than the registrant;

3 (b) a complete copy of the label of the pesticide, the
 4 United States environmental protection agency registration
 5 number if the pesticide is so registered, and a statement of
 6 all claims to be made for it, including directions for use;

7 (c) the trade and chemical name of the pesticide;

8 (d) if requested by the department, a full description
 9 of tests made and the results upon which the claims are
 10 based. In the case of renewal of registration, a statement
 11 shall be required only with respect to information which is
 12 different from that furnished when the pesticide was
 13 registered or last reregistered.

14 (3) Any pesticide imported into this state which is
 15 subject to the provisions of any federal act providing for
 16 the registration of pesticides and has been registered under
 17 the provisions of a federal act shall be registered in the
 18 state. However, the state may restrict the use and
 19 application of the pesticide by type of applicator, time,
 20 and place and may establish special registrations of
 21 pesticides as outlined in subsection (8) of this section and
 22 80-8-105(3). The annual registration fee must also be paid,
 23 and registration information required by the department must
 24 be provided.

25 (4) The applicant shall pay an annual fee of ~~\$10~~ \$15

1 for each pesticide registered. A registration fee is not
 2 required to register an experimental use permit. Fees
 3 collected shall be deposited in the state treasury to the
 4 credit of the general fund.

5 (5) The department may require the submission of the
 6 complete formula and certified analytical standards of any
 7 pesticide. If it appears to the department that the
 8 composition of the article warrants the proposed claims for
 9 it and if the article and its labeling and other material
 10 required to be submitted comply with the requirements of
 11 80-8-202, it shall register the article.

12 (6) If it does not appear to the department that the
 13 article warrants the proposed claims for it or if the
 14 article and its labeling and other material required to be
 15 submitted do not comply with this chapter, it shall notify
 16 the applicant of the manner in which the article, labeling,
 17 or other material required to be submitted fails to comply
 18 with the chapter so as to afford the applicant an
 19 opportunity to make the necessary corrections. If the
 20 applicant does not make the corrections upon receipt of the
 21 notice, the department may refuse to register the article.
 22 The department may suspend or cancel the registration of a
 23 pesticide whenever it does not appear that the article or
 24 its labeling comply with this chapter. When an application
 25 for registration is refused or the department proposes to

1 suspend or cancel a registration, the registrant may appeal
 2 the department's decision.

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

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

25 (b) The department of agriculture shall establish a

1 time and place for an interagency conference for the
 2 purposes of resolving the registration of any pesticide or
 3 device. If two of the departments approve the proposed
 4 registration, the department of agriculture shall issue the
 5 registration.

6 (c) The registrant applying for registration shall be
 7 notified as to proposed changes in registration. If the
 8 departments cannot resolve the proposed registration
 9 following the interagency conference, the registrant may
 10 request a joint administrative hearing before the
 11 departments of agriculture, health and environmental
 12 sciences, and fish and game.

13 (d) Following the interagency conference and, if
 14 requested, the administrative hearing, if the proposed
 15 registration of a pesticide or device has not been resolved,
 16 the department of agriculture shall appoint an advisory
 17 council as outlined in 80-8-108 to resolve by majority vote
 18 the registration of any pesticide. The advisory council's
 19 recommendations on the registration shall be accepted by the
 20 departments and implemented by the department of
 21 agriculture."

22 Section 2. Section 80-8-203, MCA, is amended to read:

23 "80-8-203. Commercial applicator. (1) It shall be
 24 unlawful for any person to engage in the business of
 25 applying pesticides for another without a pesticide

1 applicator's license obtained from the department of
 2 agriculture. The application shall be accompanied by a fee
 3 of ~~\$10~~ \$15. Applicators applying for a dealer's license
 4 under this chapter shall be required to pay only a ~~\$5~~ \$10
 5 licensing fee for the dealer's license. The provisions of
 6 this section shall not apply to any person employed only to
 7 operate any equipment used for the application of any
 8 pesticide and in which the person has no financial interest
 9 or other control over such apparatus other than its
 10 day-to-day mechanical operation for the purpose of applying
 11 any pesticide.

12 (2) Public utility applicators shall be licensed in
 13 the same manner as commercial applicators, provided that
 14 public utility operators working under public utility
 15 applicators are not required to be licensed except as
 16 provided for under 80-8-205.

17 (3) Veterinarians licensed as provided in Title 37,
 18 chapter 18, part 3, shall not be required to be licensed to
 19 apply nonrestricted pesticides, provided that these
 20 veterinarians shall register with the department each year;
 21 provided further that the veterinarians shall be required to
 22 meet all other requirements and rules of the Montana
 23 Pesticides Act. The department shall consider the
 24 professional licensing requirements for veterinarians when
 25 adopting rules."

1 Section 3. Section 80-8-204, MCA, is amended to read:

2 "80-8-204. Application for applicator's license. (1)
3 Application for a pesticide applicator's license provided
4 for in 80-8-203 shall be made annually to the department
5 before applying pesticides in any calendar year, provided
6 that pesticide applicators applying for renewal of license
7 shall do so on or before May 1 of that calendar year. Any
8 applicator applying for renewal of license after May 1 shall
9 be assessed a \$10 ~~15~~ late licensing fee.

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

15 Section 4. Section 80-8-207, MCA, is amended to read:

16 "80-8-207. Dealers. (1) It is unlawful for a dealer to
17 sell, deliver, or have delivered within this state any
18 pesticide without first procuring a license from the
19 department of agriculture for each calendar year or portion
20 thereof. A separate dealer's license and fee shall be
21 required for each location or outlet from which pesticides
22 are distributed, sold, held for sale, or offered for sale.
23 Pesticide fieldmen or salesmen employed directly out of the
24 same location or outlet and under a licensed dealer shall
25 not be required to obtain a license. The dealer shall

1 furnish the department the names and addresses of its
2 fieldmen and salesmen selling pesticides within the state.

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8 (3) The dealer shall require the purchaser of any
9 restricted pesticide to exhibit his license or permit issued
10 under authority of this chapter before completing a sale.

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12 licenses if the application is accompanied by a \$10 ~~15~~
13 licensing fee for each year of the state biennium.

14 (5) Pharmacists licensed as provided for in 37-7-302
15 and 37-7-303, veterinarians licensed as provided for in
16 37-18-302 and 37-18-303, and certified pharmacies licensed
17 under 37-7-321 shall not be required to be licensed to sell
18 pesticides, provided that the certified pharmacies and
19 veterinarians shall register with the department each year.
20 However, the certified pharmacies and veterinarians shall be
21 required to meet all other requirements concerning the
22 commercial sale of pesticides. The department shall take
23 into account the professional licensing requirements of
24 pharmacists, certified pharmacies, and veterinarians when
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FISCAL NOTE

Form BD-15

In compliance with a written request received February 8, 1979, there is hereby submitted a Fiscal Note for House Bill 589 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:

An act providing for an increase in licensing and registration fees of pesticide-related activities.

ASSUMPTIONS:

1. The increased fees will become effective January 1, 1980.
2. Calculations are based on 1978 data.

FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Fee collections under current law		
Commercial applicator	\$ 8,450	\$ 8,450
Commercial dealer	3,370	3,370
Registration	<u>32,500</u>	<u>32,500</u>
	<u>44,320</u>	<u>44,320</u>
Fee collections under proposed law		
Commercial applicator	12,675	12,675
Commercial dealer	5,055	5,055
Registration	<u>48,750</u>	<u>48,750</u>
	<u>66,480</u>	<u>66,480</u>
Increased collections under proposed law	<u>\$22,160</u>	<u>\$22,160</u>

The additional collections accrue to the State General Fund.

TECHNICAL NOTE:

Line 7, page 8 should read - \$15.00 for late licensing fee instead of \$30.00

Candice Dearing
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-13-79

Approved by Committee
on Agriculture Livestock
& Irrigation

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16 "80-8-207. Dealers. (1) It is unlawful for a dealer to
17 sell, deliver, or have delivered within this state any
18 pesticide without first procuring a license from the
19 department of agriculture for each calendar year or portion
20 thereof. A separate dealer's license and fee shall be
21 required for each location or outlet from which pesticides
22 are distributed, sold, held for sale, or offered for sale.
23 Pesticide fieldmen or salesmen employed directly out of the
24 same location or outlet and under a licensed dealer shall
25 not be required to obtain a license. The dealer shall

1 furnish the department the names and addresses of its
2 fieldmen and salesmen selling pesticides within the state.

3 (2) The application for a license shall be accompanied
4 by a fee of \$10 ~~15~~. Dealers applying for renewal of license
5 shall do so on or before May 1 of that calendar year. Any
6 dealer applying for renewal of license after May 1 shall be
7 assessed a \$10 ~~15~~ late licensing fee.

8 (3) The dealer shall require the purchaser of any
9 restricted pesticide to exhibit his license or permit issued
10 under authority of this chapter before completing a sale.

11 (4) Dealers may make one application for two annual
12 licenses if the application is accompanied by a \$10 ~~15~~
13 licensing fee for each year of the state biennium.

14 (5) Pharmacists licensed as provided for in 37-7-302
15 and 37-7-303, veterinarians licensed as provided for in
16 37-18-302 and 37-18-303, and certified pharmacies licensed
17 under 37-7-321 shall not be required to be licensed to sell
18 pesticides, provided that the certified pharmacies and
19 veterinarians shall register with the department each year.
20 However, the certified pharmacies and veterinarians shall be
21 required to meet all other requirements concerning the
22 commercial sale of pesticides. The department shall take
23 into account the professional licensing requirements of
24 pharmacists, certified pharmacies, and veterinarians when
25 adopting rules."

1 HOUSE BILL NO. 589

2 INTRODUCED BY MANUEL

3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN
6 INCREASE IN LICENSING AND REGISTRATION FEES OF
7 PESTICIDE-RELATED ACTIVITIES; AMENDING SECTIONS 80-8-201,
8 80-8-203, 80-8-204, AND 80-8-207, MCA."

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

11 Section 1. Section 80-8-201, MCA, is amended to read:

12 "80-8-201. Registration. (1) Every pesticide
13 distributed, sold, or offered for sale within this state or
14 delivered for transportation or transported in intrastate
15 commerce or between points within this state shall be
16 registered with the department. The registration shall be
17 renewed annually by the manufacturer, formulator, or
18 distributor of the pesticide. The department shall register
19 all approved pesticides and those registered are subject to
20 registration fees and all other provisions of this chapter.
21 All registrations of pesticides expire on December 31
22 following the date of issuance unless otherwise terminated.

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

25 (a) the name and address of the applicant and the name
26 and address of the person whose name will appear on the

1 label, if other than the registrant;

2 (b) a complete copy of the label of the pesticide, the
3 United States environmental protection agency registration
4 number if the pesticide is so registered, and a statement of
5 all claims to be made for it, including directions for use;

6 (c) the trade and chemical name of the pesticide;

7 (d) if requested by the department, a full description
8 of tests made and the results upon which the claims are
9 based. In the case of renewal of registration, a statement
10 shall be required only with respect to information which is
11 different from that furnished when the pesticide was
12 registered or last reregistered.

13 (3) Any pesticide imported into this state which is
14 subject to the provisions of any federal act providing for
15 the registration of pesticides and has been registered under
16 the provisions of a federal act shall be registered in the
17 state. However, the state may restrict the use and
18 application of the pesticide by type of applicator, time,
19 and place and may establish special registrations of
20 pesticides as outlined in subsection (8) of this section and
21 80-8-105(3). The annual registration fee must also be paid,
22 and registration information required by the department must
23 be provided.

24 (4) The applicant shall pay an annual fee of ~~\$10~~ \$15
25 for each pesticide registered. A registration fee is not
26 required to register an experimental use permit. Fees

1 collected shall be deposited in the state treasury to the
2 credit of the general fund.

3 (5) The department may require the submission of the
4 complete formula and certified analytical standards of any
5 pesticide. If it appears to the department that the
6 composition of the article warrants the proposed claims for
7 it and if the article and its labeling and other material
8 required to be submitted comply with the requirements of
9 80-6-202, it shall register the article.

10 (6) If it does not appear to the department that the
11 article warrants the proposed claims for it or if the
12 article and its labeling and other material required to be
13 submitted do not comply with this chapter, it shall notify
14 the applicant of the manner in which the article, labeling,
15 or other material required to be submitted fails to comply
16 with the chapter so as to afford the applicant an
17 opportunity to make the necessary corrections. If the
18 applicant does not make the corrections upon receipt of the
19 notice, the department may refuse to register the article.
20 The department may suspend or cancel the registration of a
21 pesticide whenever it does not appear that the article or
22 its labeling comply with this chapter. When an application
23 for registration is refused or the department proposes to
24 suspend or cancel a registration, the registrant may appeal
25 the department's decision.

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

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

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

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

3 (c) The registrant applying for registration shall be
4 notified as to proposed changes in registration. If the
5 departments cannot resolve the proposed registration
6 following the interagency conference, the registrant may
7 request a joint administrative hearing before the
8 departments of agriculture, health and environmental
9 sciences, and fish and game.

10 (d) Following the interagency conference and, if
11 requested, the administrative hearing, if the proposed
12 registration of a pesticide or device has not been resolved,
13 the department of agriculture shall appoint an advisory
14 council as outlined in 80-8-108 to resolve by majority vote
15 the registration of any pesticide. The advisory council's
16 recommendations on the registration shall be accepted by the
17 departments and implemented by the department of
18 agriculture."

19 Section 2. Section 80-8-203, MCA, is amended to read:

20 "80-8-203. Commercial applicator. (1) It shall be
21 unlawful for any person to engage in the business of
22 applying pesticides for another without a pesticide
23 applicator's license obtained from the department of
24 agriculture. The application shall be accompanied by a fee
25 of ~~\$10~~ \$15. Applicators applying for a dealer's license
26 under this chapter shall be required to pay only a ~~\$5~~ \$10

1 licensing fee for the dealer's license. The provisions of
2 this section shall not apply to any person employed only to
3 operate any equipment used for the application of any
4 pesticide and in which the person has no financial interest
5 or other control over such apparatus other than its
6 day-to-day mechanical operation for the purpose of applying
7 any pesticide.

8 (2) Public utility applicators shall be licensed in
9 the same manner as commercial applicators, provided that
10 public utility operators working under public utility
11 applicators are not required to be licensed except as
12 provided for under 80-8-205.

13 (3) Veterinarians licensed as provided in Title 37,
14 chapter 18, part 3, shall not be required to be licensed to
15 apply nonrestricted pesticides, provided that these
16 veterinarians shall register with the department each year;
17 provided further that the veterinarians shall be required to
18 meet all other requirements and rules of the Montana
19 Pesticides Act. The department shall consider the
20 professional licensing requirements for veterinarians when
21 adopting rules."

22 Section 3. Section 80-8-204, MCA, is amended to read:

23 "80-8-204. Application for applicator's license. (1)
24 Application for a pesticide applicator's license provided
25 for in 80-8-203 shall be made annually to the department
26 before applying pesticides in any calendar year, provided

1 that pesticide applicators applying for renewal of license
 2 shall do so on or before May 1 of that calendar year. Any
 3 applicator applying for renewal of license after May 1 shall
 4 be assessed a \$10 ~~\$20~~ \$15 late licensing fee.

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

10 Section 4. Section 80-8-207, MCA, is amended to read:

11 "80-8-207. Dealers. (1) It is unlawful for a dealer to
 12 sell, deliver, or have delivered within this state any
 13 pesticide without first procuring a license from the
 14 department of agriculture for each calendar year or portion
 15 thereof. A separate dealer's license and fee shall be
 16 required for each location or outlet from which pesticides
 17 are distributed, sold, held for sale, or offered for sale.
 18 Pesticide fieldmen or salesmen employed directly out of the
 19 same location or outlet and under a licensed dealer shall
 20 not be required to obtain a license. The dealer shall
 21 furnish the department the names and addresses of its
 22 fieldmen and salesmen selling pesticides within the state.

23 (2) The application for a license shall be accompanied
 24 by a fee of \$10 ~~\$15~~ \$15. Dealers applying for renewal of license
 25 shall do so on or before May 1 of that calendar year. Any
 26 dealer applying for renewal of license after May 1 shall be

1 assessed a \$10 ~~\$20~~ \$15 late licensing fee.

2 (3) The dealer shall require the purchaser of any
 3 restricted pesticide to exhibit his license or permit issued
 4 under authority of this chapter before completing a sale.

5 (4) Dealers may make one application for two annual
 6 licenses if the application is accompanied by a \$10 ~~\$15~~
 7 licensing fee for each year of the state biennium.

8 (5) Pharmacists licensed as provided for in 37-7-302
 9 and 37-7-303, veterinarians licensed as provided for in
 10 37-18-302 and 37-18-303, and certified pharmacies licensed
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 12 pesticides, provided that the certified pharmacies and
 13 veterinarians shall register with the department each year.
 14 However, the certified pharmacies and veterinarians shall be
 15 required to meet all other requirements concerning the
 16 commercial sale of pesticides. The department shall take
 17 into account the professional licensing requirements of
 18 pharmacists, certified pharmacies, and veterinarians when
 19 adopting rules."

-End-