

CHAPTER NO. 20

SENATE BILL NO. 5

INTRODUCED BY HAGER

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 4, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation. On Motion Senator Hager was added as author to the Pre-Filed Bill.
January 8, 1979	Committee recommend bill do pass. Report adopted.
January 9, 1979	Printed and placed on members' desks.
January 10, 1979	Second Reading, do pass.
January 11, 1979	Considered correctly engrossed.
January 13, 1979	Third Reading, passed. Transmitted to Second House.

IN THE HOUSE

January 15, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
January 30, 1979	Committee recommend bill be concurred in and placed on Consent Calendar. Report adopted.
February 1, 1979	Third Reading Consent Calendar concurred in.

IN THE SENATE

February 3, 1979	Returned from second house. Sent to enrolling. Reported correctly enrolled.
------------------	--

1 SENATE BILL NO. 5
 2 INTRODUCED BY _____
 3 BY REQUEST OF THE CODE COMMISSIONER
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAWS RELATING TO AGRICULTURE."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 80-2-221, MCA, is amended to read:

10 "80-2-221. Tax for hail insurance -- limitation on
 11 levy. (1) A tax is hereby authorized and directed to be
 12 levied on all lands in this state growing crops subject to
 13 injury or destruction by hail, the owners of which have
 14 elected to become subject to the provisions of this part.

15 (2) The board of hail insurance shall annually
 16 estimate, as accurately as possible, the amount required to
 17 pay all losses, interest on warrants, and costs of
 18 administration and shall recommend a levy to be made on each
 19 kind of land respectively, subject to the provisions of this
 20 part, to the department of revenue. The rates recommended to
 21 apply on the lands of owners shall be applied in the same
 22 proportions to the crops of those insured on a personal
 23 assessment basis.

24 (3) It is hereby provided, however, that such tax may
 25 not exceed in any one year \$2.40 per acre on lands sown to

1 grain crops on nonirrigated lands, \$4.80 per acre on
 2 irrigated lands, or \$2.40 per acre on lands producing hay
 3 crops.

4 (4) If the tax required to pay the estimated losses,
 5 interest on warrants, and costs of administration is less
 6 than \$1.20 per acre on lands sown to grain crops on
 7 nonirrigated lands and \$2.40 per acre on irrigated lands and
 8 a proportionate amount on lands sown to hay crops, the board
 9 of hail insurance must recommend a tax levy sufficient to
 10 raise the full amount thereof."

11 Section 2. Section 80-2-245, MCA, is amended to read:

12 "80-2-245. Benefits exempt from execution. All money
 13 or benefits received from hail insurance ~~shall be~~ are exempt
 14 from execution, ~~and shall~~ are not be liable to attachment,
 15 ~~or to~~ and may not be seized, taken, or appropriated by any
 16 local process to pay any debt or liability of the insured
 17 unless the amount ~~shall be~~ is assigned and then for no more
 18 than the amount of the claim intended to be secured by the
 19 assignment, with lawful interest."

20 Section 3. Section 80-3-501, MCA, is amended to read:

21 "80-3-501. Definitions. Unless the context requires
 22 otherwise, as used in this part, the following definitions
 23 apply:

24 (1) "Beans" means all varieties of the bean family
 25 (except green beans) whether grown or purchased for seed,

1 feed, or human consumption.

2 (2) "Storage" or "warehousing" means any method by
3 which beans are held for any party, other than direct
4 ownership, by the party storing the beans.

5 (3) "Warehouseman" or "~~person~~" means a dealer, shipper
6 (except grower), society, association, organization,
7 corporation, or their agents or representatives."

8 Section 4. Section 80-3-508, MCA, is amended to read:

9 "80-3-508. Records of bean dealer -- inspection --
10 receipt. (1) A dealer in beans shall keep a complete record
11 of all beans handled by him in on a form described--in
12 prescribed by the department. The record shall be open to
13 the confidential inspection of the department at all times.

14 (2) Every warehouseman shall issue a receipt for all
15 beans received for storage on a form approved by the
16 department.

17 (3) A person operating under this part shall keep in a
18 place of safety complete records of all beans stored by him,
19 all beans withdrawn from storage, all warehouse receipts
20 issued by him, and all the receipts returned to and canceled
21 by him and shall report to the department as required by the
22 rules of the department."

23 Section 5. Section 80-3-513, MCA, is amended to read:

24 "80-3-513. Penalties for doing business without
25 license and other violations. Any person who ~~shall~~--engage

1 ~~engages~~ in or ~~carry carries~~ on any business or occupation
2 for which a license is required by this part without first
3 having obtained a license therefor or who ~~shall continue~~
4 ~~continues~~ to engage in or carry on any such business or
5 occupation after such license has been revoked or expired
6 ~~shall be deemed~~ is guilty of a misdemeanor and upon
7 conviction thereof shall be fined not less than \$25 or more
8 than \$100, and each ~~and every~~ day that such business or
9 occupation is so carried on or engaged in ~~shall be~~ is a
10 separate offense. Any person who ~~shall~~ otherwise ~~violate~~
11 violates any of the provisions of this part or ~~shall~~ by any
12 manner or means ~~convert converts~~ to his own use or that of
13 another any beans so stored or accepted for storage ~~shall~~,
14 if the value of such converted beans exceeds \$500, be
15 ~~deemed~~ is guilty of a felony and or, if the value is less
16 than \$500, ~~be deemed~~ is guilty of a misdemeanor and in
17 either case upon conviction shall be punished by fine or
18 imprisonment, or both, as otherwise provided by law."

19 Section 6. Section 80-4-106, MCA, is amended to read:

20 "80-4-106. Penalty for misconduct. (1) Any inspector,
21 sampler, or weigher who ~~shall be~~ is guilty of any neglect of
22 duty or who ~~shall~~ knowingly or carelessly ~~inspect~~ inspects,
23 ~~sample samples~~, or weigh weighs any grain or who ~~shall~~,
24 directly or indirectly, ~~accept accepts~~ any money or other
25 consideration for any neglect of duty or any improper

1 performance of duty as such inspector, sampler, or weigher
 2 or any person, persons, corporation, or agent who ~~shall~~
 3 improperly ~~influence~~ influences or ~~attempt~~ attempts to
 4 improperly influence any inspector, sampler, or weigher in
 5 the performance of his duties ~~shall be deemed~~ is guilty of a
 6 misdemeanor and upon conviction thereof shall be fined
 7 punished by a fine of not less than \$100 or more than \$500
 8 or be imprisoned in the county jail not less than 30 days or
 9 more than 1 year or by both such fine and imprisonment, in
 10 the discretion of the court.

11 (2) Upon written complaint filed with the department,
 12 charging an inspector, sampler, or weigher with official
 13 misconduct, inefficiency, incompetency, or neglect of duty,
 14 the department shall investigate the charges. If the charges
 15 are substantiated, the department shall remove that
 16 officer."

17 Section 7. Section 80-5-202, MCA, is amended to read:

18 "80-5-202. Licensing -- issuance -- application -- fee
 19 -- bonding -- insurance. (1) All seed processing plants,
 20 seed labelers, seed buyers, and public agricultural seed
 21 warehouses shall obtain a license from the department before
 22 doing business in this state; however, a Montana certified
 23 seed grower, when processing or labeling certified seed from
 24 his own production, is not required to be licensed under
 25 this section. Bin-run seed sales from one farmer to another

1 are exempt from this part.

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

6 (3) Application for license is made in a manner and on
 7 forms provided by the department. A nonresident shall file a
 8 written power of attorney designating the secretary of state
 9 as his agent, and the power of attorney shall be so prepared
 10 and in such form as to render effective the jurisdiction of
 11 the courts of the state of Montana over the nonresident
 12 applicant. A nonresident who has a duly appointed resident
 13 agent upon whom process may be ~~serviceed~~ served as provided
 14 by law is not required to designate the secretary of state
 15 as his agent. The department shall be furnished with a
 16 certified copy of the designation of the secretary of state
 17 or of a resident agent.

18 (4) The department may establish by rule minimum
 19 standards for equipment and handling procedures for
 20 facilities to be licensed and may carry out inspections
 21 during normal business hours to determine that these
 22 standards are being adhered to.

23 (5) Each license shall cost no more than \$50 a year.
 24 The department may by rule establish license fees which bear
 25 a reasonable relationship to the cost of administering this

1 part.

2 (6) Failure on the part of a licensee to comply with
3 the rules issued under the authority of this section is
4 sufficient cause for cancellation of a license by the
5 department, provided the licensee is given a reasonable
6 opportunity to correct inadvertent and nonrecurring
7 deficiencies.

8 (7) The department may by rule establish bonding and
9 insurance requirements for each class of license."

10 Section 8. Section 80-5-206, MCA, is amended to read:

11 "80-5-206. Rules -- promulgated by department. The
12 department is authorized to promulgate necessary rules as
13 authorized by this part. All rules are to be promulgated in
14 accordance with procedures as set forth in the Montana
15 Administrative Procedure Act."

16 Section 9. Section 80-8-202, MCA, is amended to read:

17 "80-8-202. Prohibited acts. (1) It ~~shall~~ ~~be~~ is
18 unlawful for any person to distribute, sell, or offer for
19 sale within this state or deliver for transportation or
20 transport in intrastate commerce between points within this
21 state any of the following:

22 (a) any pesticide which has not been registered
23 pursuant to the provisions of 80-8-201 or any pesticide if
24 any of the claims made for it or any of the directions for
25 its use differ in substance from the representations made in

1 connection with its registration or if the composition of a
2 pesticide differs from its composition as represented in
3 connection with its registration or if registration or
4 reregistration has been refused, revoked, canceled, or
5 suspended. The department of agriculture may allow a change
6 in the labeling or formula of a pesticide within a
7 registration period without requiring reregistration of the
8 produce ~~product~~ when such change does not adversely affect
9 the product for its intended use and if proper application
10 therefor is made.

11 (b) any pesticide unless it is in the registrant's or
12 the manufacturer's unbroken immediate container and there is
13 affixed to such container and to the outside container or
14 wrapper of the retail package, if there be one, through
15 which the required information on the immediate container
16 cannot be clearly read, a label bearing:

17 (i) the name and address of the manufacturer,
18 registrant, or person for whom manufactured;

19 (ii) the trade and chemical name, brand, or trademark
20 under which said article is sold;

21 (iii) the net weight or measure of the content~~s~~
22 subject however to such reasonable variations as the
23 department may permit;

24 (c) any pesticide which contains any substance or
25 substances in quantities highly toxic to man, determined as

1 provided in 80-8-105, unless the label shall bear, in
2 addition to any other matter required by this chapter:

- 3 (i) the skull and crossbones;
4 (ii) the word "poison" prominently in red on a
5 background of distinctly contrasting color;
6 (iii) a statement of an antidote for the pesticide;
7 (d) the pesticides commonly known as standard lead
8 arsenate, basic lead arsenate, calcium arsenate, magnesium
9 arsenate, zinc arsenate, zinc arsenite, sodium fluoride,
10 sodium fluosilicate, and barium fluosilicate, unless they
11 have been distinctly colored or discolored, as provided by
12 regulations issued in accordance with this chapter, or any
13 other white powder pesticide which the department, after
14 investigation of and after public hearing on the necessity
15 for such action for the protection of the public health and
16 the environment and the feasibility of such coloration or
17 discoloration, shall by regulations require to be distinctly
18 colored or discolored, unless it has been so colored or
19 discolored. The department may exempt any pesticide to the
20 extent that it is intended for a particular use from the
21 coloring or discoloring required or authorized by this
22 section if it determines that such coloring or discoloring
23 for such use is not necessary for the protection of the
24 public health and the environment.

25 (e) any pesticide which is adulterated or misbranded,

1 or any device which is misbranded.

2 (2) It shall be ~~is~~ unlawful for any person to:

3 (a) detach, alter, deface, or destroy, in whole or in
4 part, any label or labeling provided for in this chapter or
5 rules promulgated hereunder or to add any substance to or
6 take any substance from a pesticide in a manner that may
7 defeat the purpose of this chapter;

8 (b) use for his own advantage or to reveal, other than
9 to the department or proper officials or employees of the
10 state or the courts of this state in response to a subpoena,
11 to physicians or to veterinarians or in emergencies to
12 pharmacists and other qualified persons for use in the
13 preparation of antidotes, any information relative to
14 formulas of products acquired by authority of 80-8-201."

15 Section 10. Section 80-8-209, MCA, is amended to read:

16 "80-8-209. Farm applicators. (1) Farm applicators
17 shall ~~be required to~~ obtain a certificate or special-use
18 permit prior to purchasing and using any pesticide
19 designated by the department as a restricted-use pesticide.
20 The certificate, to be issued for 5 calendar years, must be
21 renewed annually by the department or its authorized
22 representative. The 5-year certification period shall
23 commence on January 1, 1978.

24 (2) Restricted pesticides may not be utilized by farm
25 applicators or their employees except for the purpose of

1 producing or protecting any agricultural commodity on
2 property owned, leased, or rented or as provided in (6) of
3 this section.

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

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

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

17 (c) apply pesticides in accordance with label
18 instructions and warnings, including the ability to prepare
19 the proper concentration of pesticides to be used under
20 particular circumstances, taking into account such factors
21 as area to be covered, speed at which application equipment
22 will be driven, and the quantity dispersed in a given period
23 of operation;

24 (d) recognize local environmental situations that must
25 be considered during application to avoid contamination; and

1 (e) recognize poisoning symptoms and procedures to
2 follow in case of a pesticide accident.

3 (4) The department may require farm applicators to
4 attend a mandatory training session and pass a written
5 examination for those restricted pesticides ~~which~~ that are
6 extremely toxic or for which an effective antidote is not
7 available. The department may require farm applicators
8 handling these pesticides to maintain use records.

9 (5) Farm applicators having verified reading
10 disabilities may become certified to use up to two
11 restricted-use pesticides by passing a specific oral
12 examination on the particular pesticide(s) if the applicator
13 documents that a certified applicator in the immediate
14 vicinity can advise him.

15 (6) Provisions of this chapter relating to ~~licensing~~
16 ~~certification~~ of farm applicators ~~shall~~ do not apply to any
17 farm applicator applying nonrestricted pesticides on his own
18 land or on lands of his neighbor's ~~neighbors~~ neighbors—~~provided that~~
19 if he:

20 (a) operates farm property and operates and maintains
21 pesticide application equipment primarily for his own use;

22 (b) is not regularly engaged in the business of
23 applying pesticides for hire and does not publicly hold
24 himself out as a pesticide applicator;

25 (c) operates his pesticide application equipment only

1 in the vicinity of his own property and for the
2 accommodation of his immediate neighbors."

3 Section 11. Section 80-8-210, MCA, is amended to read:

4 "80-8-210. Licensing nonresidents. Any nonresident
5 applying for a license under this chapter to operate in the
6 state of Montana shall file a written power of attorney
7 designating the secretary of state as the agent of such
8 nonresident upon whom service of process may be had in the
9 event of any suit against ~~and the~~ nonresident person, and
10 such power of attorney shall be so prepared and in such form
11 as to render effective the jurisdiction of the courts ~~of the~~
12 state of Montana over such nonresident applicant; provided,
13 however, that any such nonresident who has a duly appointed
14 resident agent upon whom process may be ~~serviced~~ served as
15 provided by law ~~shall~~ is not be required to designate the
16 secretary of state as such agent. The secretary of state
17 shall be allowed such fees as provided by law for
18 designating resident agents. The department shall be
19 furnished with a copy of such designation of the secretary
20 of state or of a resident agent, such copy to be duly
21 certified by the secretary of state."

22 Section 12. Section 80-9-101, MCA, is amended to read:

23 "80-9-101. Definitions. Unless the context requires
24 otherwise, in this chapter the following definitions apply:

25 (1) "Brand name" means any word, name, symbol, or

1 device or any combination of them identifying the
2 commercial feed of a distributor or registrant and
3 distinguishing it from that of others.

4 (2) "Commercial feed" means all materials except the
5 mixed or unmixd whole seeds or physically altered mixed or
6 unmixd entire seeds of cereal grains with or without
7 molasses added, when not adulterated within the meaning of
8 subsections (1) through (5) of 80-9-204, which are
9 distributed for use as feed or for mixing in feed. However,
10 the department may by rule exempt from this definition or
11 from specific provisions of this chapter commodities such as
12 hay, straw, stover, silage, cobs, husks, hulls, and
13 individual chemical compounds or substances when those
14 commodities, compounds, or substances are not intermixed or
15 mixed with other materials and are not adulterated within
16 the meaning of subsections (1) through (5) of 80-9-204.

17 (3) "Custom-mixed feed" means commercial feed which
18 consists of a mixture of either commercial feeds or feed
19 ingredients or both of them, each batch of which is
20 manufactured according to specifications mutually agreed to
21 by the purchaser and the manufacturer. A copy of the
22 specifications or a list of the ingredients, but not
23 necessarily the percentage of each ingredient, shall be on
24 file at the manufacturing facility.

25 (4) "Distribute" means to offer for sale, sell,

1 exchange, or barter commercial feed.

2 (5) "Distributor" means a person who distributes.

3 (6) "Drug" means any article intended for use in the
4 diagnosis, cure, mitigation, treatment, or prevention of
5 disease in animals other than man and articles other than
6 feed intended to affect the structure or function of the
7 animal body.

8 (7) "Feed ingredient" means each of the constituent
9 materials making up a commercial feed.

10 (8) "Label" means a display of written, printed, or
11 graphic matter upon or affixed to the container in which a
12 commercial feed is distributed or on the invoice or delivery
13 slip with which a commercial feed is distributed.

14 (9) "Labeling" means all labels and other written,
15 printed, or graphic matter upon a commercial feed, any of
16 its containers, its wrapper, or accompanying the commercial
17 feed.

18 (10) "Manufacture" means to grind, mix, blend, or
19 further process a commercial feed.

20 (11) "Mineral feed" means a commercial feed intended to
21 supply primarily mineral elements or inorganic nutrients.

22 (12) "Official sample" means a sample of feed taken by
23 the department in accordance with the provisions of
24 subsections (3), (5), or (6) of 80-9-301.

25 (13) "Percent" or "percentage" means percentage by

1 weights.

2 (14) "Person" means an individual, partnership,
3 corporation, and an association.

4 (15) "Pet" means any domesticated animal normally
5 maintained in or near the household of its owner.

6 (16) "Pet food" means any ~~commercial~~ commercial feed
7 prepared and distributed for consumption by pets.

8 (17) "Product name" means the name of the commercial
9 feed which identifies it as to kind, class, or specific use.

10 (18) "Specialty pet" means any domesticated animal pet
11 normally maintained in a cage or tank, including but not
12 limited to gerbils, hamsters, canaries, psittacine birds,
13 mynahs, finches, tropical fish, goldfish, snakes, and
14 turtles.

15 (19) "Specialty pet food" means any commercial feed
16 prepared and distributed for consumption by specialty pets.

17 (20) "Ton" means a net weight of 2,000 pounds
18 avoirdupois."

19 Section 13. Section 80-10-210, MCA, is amended to
20 read:

21 "80-10-210. Licensee reports -- confidentiality --
22 inspection -- failure to file. (1) Information contained in
23 the reports required by 80-10-207(3) shall be held
24 confidential by the department. Summary data published by
25 the department shall be in a form that will not disclose

LC 0003/01

1 details of any operation or business.

2 (2) The department ~~has the right to~~ **may** inspect and
3 audit, during normal business hours, each licensee's records
4 for the purpose of verifying tonnage reports.

5 (3) Failure to file an accurate report constitutes a
6 violation of this chapter and **may** be punished by fine,
7 revocation of license, or both."

-End-

SENATE MEMBERS

CARROLL GRAHAM
CHAIRMAN

FRANK HAZELBAKER
VICE CHAIRMAN

CHET BLAYLOCK

PAT M. GOODOVER

DIANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER

ELEANOR ECK
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES



Montana Legislative Council

State Capital
Helena, 59601

(406) 449-3064

HOUSE MEMBERS

JOHN B. DRISCOLL

OSCAR KVAALLEN

J.D. LYNCH

ROBERT L. MARKS

H. DAVID COGLEY
DIRECTOR, LEGAL SERVICES

ROBERT PERSON
DIRECTOR, RESEARCH

LC 0003

1979 Legislature
Code Commissioner Bill

SENATE Bill No. 5

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO AGRICULTURE

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

Section 1. 80-2-221. Grammatical change in subsection (2).

Section 2. 80-2-245. Grammatical change.

Section 3. 80-3-501. The word "person" is used in the part to apply to all persons generally, rather than just those persons listed in this definition (see 80-3-506), hence the definition creates confusion since it seems to limit "person". The term "warehouseman" is used uniformly in reference to the persons listed in this definition, hence it is not only inappropriate, but also unnecessary, to define "person".

Section 4. 80-3-508. Grammatical change in subsection (1).

Section 5. 80-3-513. Grammatical change.

Section 6. 80-4-106. Grammatical change.

Section 7. 80-5-202. Changed "serviced" to served" in subsection (3) for proper meaning.

Section 8. 80-5-206. Grammatical change.

Section 9. 80-8-202. Changed "produce" to "product" in subsection (1)(a) to correct apparent typographical error in original bill.

Section 10. 80-8-209. Added "to" in subsection (3) for grammatical reasons. Changed "licensing" to "certification" in subsection (6) to make terminology consistent throughout the section.

Section 11. 80-8-210. Same change as 7. above.

Section 12. 80-9-101. Grammatical change in subsection (14).

Section 13. 80-10-210. Added language to indicate what reports are being referred to. Grammatical change in (2).

Approved by Committee
on Agriculture Livestock
& Irrigation

1 SENATE BILL NO. 5
2 INTRODUCTION BY Hayes
3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO AGRICULTURE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 80-2-221, MCA, is amended to read:

10 "80-2-221. Tax for hail insurance -- limitation on
11 levy. (1) A tax is hereby authorized and directed to be
12 levied on all lands in this state growing crops subject to
13 injury or destruction by hail, the owners of which have
14 elected to become subject to the provisions of this part.

15 (2) The board of hail insurance shall annually
16 estimate, as accurately as possible, the amount required to
17 pay all losses, interest on warrants, and costs of
18 administration and shall recommend a levy to be made on each
19 kind of land respectively, subject to the provisions of this
20 part, to the department of revenue. The rates recommended to
21 apply on the lands of owners shall be applied in the same
22 proportions to the crops of those insured on a personal
23 assessment basis.

24 (3) It is hereby provided, however, that such tax may
25 not exceed in any one year \$2.40 per acre on lands sown to

1 grain crops on nonirrigated lands, \$4.80 per acre on
2 irrigated lands, or \$2.40 per acre on lands producing hay
3 crops.

4 (4) If the tax required to pay the estimated losses,
5 interest on warrants, and costs of administration is less
6 than \$1.20 per acre on lands sown to grain crops on
7 nonirrigated lands and \$2.40 per acre on irrigated lands and
8 a proportionate amount on lands sown to hay crops, the board
9 of hail insurance must recommend a tax levy sufficient to
10 raise the full amount thereof."

11 Section 2. Section 80-2-245, MCA, is amended to read:

12 "80-2-245. Benefits exempt from execution. All money
13 or benefits received from hail insurance ~~shall be~~ are exempt
14 from execution, ~~and shall~~ are not be liable to attachment,
15 ~~or--to~~ and may not be seized, taken, or appropriated by any
16 local process to pay any debt or liability of the insured
17 unless the amount ~~shall be~~ is assigned and then for no more
18 than the amount of the claim intended to be secured by the
19 assignment, with lawful interest."

20 Section 3. Section 80-3-501, MCA, is amended to read:

21 "80-3-501. Definitions. Unless the context requires
22 otherwise, as used in this part, the following definitions
23 apply:

24 (1) "Beans" means all varieties of the bean family
25 (except green beans) whether grown or purchased for seed,

1 feed, or human consumption.

2 (2) "Storage" or "warehousing" means any method by
3 which beans are held for any party, other than direct
4 ownership, by the party storing the beans.

5 (3) "Warehouseman" or "person" means a dealer, shipper
6 (except grower), society, association, organization,
7 corporation, or their agents or representatives."

8 Section 4. Section 80-3-508, MCA, is amended to read:

9 "80-3-508. Records of bean dealer -- inspection --
10 receipt. (1) A dealer in beans shall keep a complete record
11 of all beans handled by him in on a form described--in
12 prescribed by the department. The record shall be open to
13 the confidential inspection of the department at all times.

14 (2) Every warehouseman shall issue a receipt for all
15 beans received for storage on a form approved by the
16 department.

17 (3) A person operating under this part shall keep in a
18 place of safety complete records of all beans stored by him,
19 all beans withdrawn from storage, all warehouse receipts
20 issued by him, and all the receipts returned to and canceled
21 by him and shall report to the department as required by the
22 rules of the department."

23 Section 5. Section 80-3-513, MCA, is amended to read:

24 "80-3-513. Penalties for doing business without
25 license and other violations. Any person who ~~shall~~--engage

1 ~~engage~~ in or carry ~~carries~~ on any business or occupation
2 for which a license is required by this part without first
3 having obtained a license therefor or who ~~shall~~--~~continue~~
4 ~~continues~~ to engage in or carry on any such business or
5 occupation after such license has been revoked or expired
6 ~~shall~~--~~be~~--~~deemed~~ is guilty of a misdemeanor and upon
7 conviction thereof shall be fined not less than \$25 or more
8 than \$100, and each end--every day that such business or
9 occupation is so carried on or engaged in ~~shall~~--~~be~~ is a
10 separate offense. Any person who ~~shall~~ otherwise ~~violate~~
11 ~~violates~~ any of the provisions of this part or ~~shall~~ by any
12 manner or means ~~convert~~ ~~converts~~ to his own use or that of
13 another any beans so stored or accepted for storage ~~shall~~,
14 if the value of such converted beans exceeds \$500, be
15 ~~deemed~~ is guilty of a felony and ~~and~~, if the value is less
16 than \$500, be--~~deemed~~ is guilty of a misdemeanor and in
17 either case upon conviction shall be punished by fine or
18 imprisonment, or both, as otherwise provided by law."

19 Section 6. Section 80-4-106, MCA, is amended to read:

20 "80-4-106. Penalty for misconduct. (1) Any inspector,
21 sampler, or weigher who ~~shall~~--~~be~~ is guilty of any neglect of
22 duty or who ~~shall~~ knowingly or carelessly ~~inspect~~ ~~inspects~~,
23 ~~sample~~--~~samples~~, or ~~weigh~~ ~~weighs~~ any grain or who ~~shall~~,
24 directly or indirectly, ~~accept~~ ~~accepts~~ any money or other
25 consideration for any neglect of duty or any improper

Approved by Committee
on Agriculture Livestock
& Irrigation

1 SENATE BILL NO. 5
2 INTRODUCTION BY Hagen
3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO AGRICULTURE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 80-2-221, MCA, is amended to read:

10 "80-2-221. Tax for hail insurance -- limitation on
11 levy. (1) A tax is hereby authorized and directed to be
12 levied on all lands in this state growing crops subject to
13 injury or destruction by hail, the owners of which have
14 elected to become subject to the provisions of this part.

15 (2) The board of hail insurance shall annually
16 estimate, as accurately as possible, the amount required to
17 pay all losses, interest on warrants, and costs of
18 administration and shall recommend a levy to be made on each
19 kind of land respectively, subject to the provisions of this
20 part, to the department of revenue. The rates recommended to
21 apply on the lands of owners shall be applied in the same
22 proportions to the crops of those insured on a personal
23 assessment basis.

24 (3) It is hereby provided, however, that such tax may
25 not exceed in any one year \$2.40 per acre on lands sown to

1 grain crops on nonirrigated lands, \$4.80 per acre on
2 irrigated lands, or \$2.40 per acre on lands producing hay
3 crops.

4 (4) If the tax required to pay the estimated losses,
5 interest on warrants, and costs of administration is less
6 than \$1.20 per acre on lands sown to grain crops on
7 nonirrigated lands and \$2.40 per acre on irrigated lands and
8 a proportionate amount on lands sown to hay crops, the board
9 of hail insurance must recommend a tax levy sufficient to
10 raise the full amount thereof."

11 Section 2. Section 80-2-245, MCA, is amended to read:

12 "80-2-245. Benefits exempt from execution. All money
13 or benefits received from hail insurance ~~shall be~~ are exempt
14 from execution, ~~and shall~~ are not be liable to attachment,
15 ~~or--to~~ and may not be seized, taken, or appropriated by any
16 local process to pay any debt or liability of the insured
17 unless the amount ~~shall be~~ is assigned and then for no more
18 than the amount of the claim intended to be secured by the
19 assignment, with lawful interest."

20 Section 3. Section 80-3-501, MCA, is amended to read:

21 "80-3-501. Definitions. Unless the context requires
22 otherwise, as used in this part, the following definitions
23 apply:

24 (1) "Beans" means all varieties of the bean family
25 (except green beans) whether grown or purchased for seed,

1 feed, or human consumption.

2 (2) "Storage" or "warehousing" means any method by
3 which beans are held for any party, other than direct
4 ownership, by the party storing the beans.

5 (3) "Warehouseman" or "person" means a dealer, shipper
6 (except grower), society, association, organization,
7 corporation, or their agents or representatives."

8 Section 4. Section 80-3-508, MCA, is amended to read:

9 "80-3-508. Records of bean dealer -- inspection --
10 receipt. (1) A dealer in beans shall keep a complete record
11 of all beans handled by him ~~in on~~ a form ~~described--in~~
12 prescribed by the department. The record shall be open to
13 the confidential inspection of the department at all times.

14 (2) Every warehouseman shall issue a receipt for all
15 beans received for storage on a form approved by the
16 department.

17 (3) A person operating under this part shall keep in a
18 place of safety complete records of all beans stored by him,
19 all beans withdrawn from storage, all warehouse receipts
20 issued by him, and all the receipts returned to and canceled
21 by him and shall report to the department as required by the
22 rules of the department."

23 Section 5. Section 80-3-513, MCA, is amended to read:

24 "80-3-513. Penalties for doing business without
25 license and other violations. Any person who ~~shall--engage~~

1 ~~engage~~ in or ~~carry carries~~ on any business or occupation
2 for which a license is required by this part without first
3 having obtained a license therefor or who ~~shall--continue~~
4 ~~continues~~ to engage in or carry on any such business or
5 occupation after such license has been revoked or expired
6 ~~shall--be--deemed~~ is guilty of a misdemeanor and upon
7 conviction thereof shall be fined not less than \$25 or more
8 than \$100, and each ~~end--every~~ day that such business or
9 occupation is so carried on or engaged in ~~shall--be~~ is a
10 separate offense. Any person who ~~shall~~ otherwise ~~violate~~
11 ~~violates~~ any of the provisions of this part or ~~shall~~ by any
12 manner or means ~~convert~~ ~~converts~~ to his own use or that of
13 another any beans so stored or accepted for storage ~~shall~~,
14 if the value of such converted beans exceeds \$500, be
15 ~~deemed~~ is guilty of a felony and ~~or~~, if the value is less
16 than \$500, ~~be--deemed~~ is guilty of a misdemeanor and in
17 either case upon conviction shall be punished by fine or
18 imprisonment, or both, as otherwise provided by law."

19 Section 6. Section 80-4-106, MCA, is amended to read:

20 "80-4-106. Penalty for misconduct. (1) Any inspector,
21 sampler, or weigher who ~~shall--be~~ is guilty of any neglect of
22 duty or who ~~shall~~ knowingly or carelessly ~~inspect~~ ~~inspects~~,
23 ~~sample~~ ~~samples~~, or weigh ~~weighs~~ any grain or who ~~shall~~,
24 directly or indirectly, ~~accept~~ ~~accepts~~ any money or other
25 consideration for any neglect of duty or any improper

1 performance of duty as such inspector, sampler, or weigher
 2 or any person, persons, corporation, or agent who ~~shall~~
 3 improperly ~~influence~~ influences or ~~attempt~~ attempts to
 4 improperly influence any inspector, sampler, or weigher in
 5 the performance of his duties ~~shall be deemed~~ is guilty of a
 6 misdemeanor and upon conviction thereof shall be ~~fin~~
 7 punished by a fine of not less than \$100 or more than \$500
 8 or be imprisoned in the county jail not less than 30 days or
 9 more than 1 year or by both such fine and imprisonment, in
 10 the discretion of the court.

11 (2) Upon written complaint filed with the department,
 12 charging an inspector, sampler, or weigher with official
 13 misconduct, inefficiency, incompetency, or neglect of duty,
 14 the department shall investigate the charges. If the charges
 15 are substantiated, the department shall remove that
 16 officer.*

17 Section 7. Section 80-5-202, MCA, is amended to read:
 18 *80-5-202. Licensing -- issuance -- application -- fee
 19 -- bonding -- insurance. (1) All seed processing plants,
 20 seed labelers, seed buyers, and public agricultural seed
 21 warehouses shall obtain a license from the department before
 22 doing business in this state; however, a Montana certified
 23 seed grower, when processing or labeling certified seed from
 24 his own production, is not required to be licensed under
 25 this section. Bin-run seed sales from one farmer to another

1 are exempt from this part.

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

6 (3) Application for license is made in a manner and on
 7 forms provided by the department. A nonresident shall file a
 8 written power of attorney designating the secretary of state
 9 as his agent, and the power of attorney shall be so prepared
 10 and in such form as to render effective the jurisdiction of
 11 the courts of the state of Montana over the nonresident
 12 applicant. A nonresident who has a duly appointed resident
 13 agent upon whom process may be ~~serviced~~ served as provided
 14 by law is not required to designate the secretary of state
 15 as his agent. The department shall be furnished with a
 16 certified copy of the designation of the secretary of state
 17 or of a resident agent.

18 (4) The department may establish by rule minimum
 19 standards for equipment and handling procedures for
 20 facilities to be licensed and may carry out inspections
 21 during normal business hours to determine that these
 22 standards are being adhered to.

23 (5) Each license shall cost no more than \$50 a year.
 24 The department may by rule establish license fees which bear
 25 a reasonable relationship to the cost of administering this

1 part.

2 (6) Failure on the part of a licensee to comply with
3 the rules issued under the authority of this section is
4 sufficient cause for cancellation of a license by the
5 department, provided the licensee is given a reasonable
6 opportunity to correct inadvertent and nonrecurring
7 deficiencies.

8 (7) The department may by rule establish bonding and
9 insurance requirements for each class of license."

10 Section 8. Section 80-5-206, MCA, is amended to read:

11 "80-5-206. Rules -- promulgated by department. The
12 department is authorized to promulgate necessary rules as
13 authorized by this part. All rules are to be promulgated in
14 accordance with procedures as set forth in the Montana
15 Administrative Procedure Act."

16 Section 9. Section 80-8-202, MCA, is amended to read:

17 "80-8-202. Prohibited acts. (1) It ~~shall~~ ~~be~~ ~~is~~
18 unlawful for any person to distribute, sell, or offer for
19 sale within this state or deliver for transportation or
20 transport in intrastate commerce between points within this
21 state any of the following:

22 (a) any pesticide which has not been registered
23 pursuant to the provisions of 80-8-201 or any pesticide if
24 any of the claims made for it or any of the directions for
25 its use differ in substance from the representations made in

1 connection with its registration or if the composition of a
2 pesticide differs from its composition as represented in
3 connection with its registration or if registration or
4 reregistration has been refused, revoked, canceled, or
5 suspended. The department of agriculture may allow a change
6 in the labeling or formula of a pesticide within a
7 registration period without requiring reregistration of the
8 ~~produce product~~ when such change does not adversely affect
9 the product for its intended use and if proper application
10 therefor is made.

11 (b) any pesticide unless it is in the registrant's or
12 the manufacturer's unbroken immediate container and there is
13 affixed to such container and to the outside container or
14 wrapper of the retail package, if there be one, through
15 which the required information on the immediate container
16 cannot be clearly read, a label bearing:

17 (i) the name and address of the manufacturer,
18 registrant, or person for whom manufactured;

19 (ii) the trade and chemical name, brand, or trademark
20 under which said article is sold;

21 (iii) the net weight or measure of the contents,
22 subject however to such reasonable variations as the
23 department may permit;

24 (c) any pesticide which contains any substance or
25 substances in quantities highly toxic to man, determined as

1 provided in 80-8-105, unless the label shall bear, in
2 addition to any other matter required by this chapter:

- 3 (i) the skull and crossbones;
- 4 (ii) the word "poison" prominently in red on a
5 background of distinctly contrasting color;
- 6 (iii) a statement of an antidote for the pesticide;
- 7 (d) the pesticides commonly known as standard lead
8 arsenate, basic lead arsenate, calcium arsenate, magnesium
9 arsenate, zinc arsenate, zinc arsonite, sodium fluoride,
10 sodium fluosilicate, and barium fluosilicate, unless they
11 have been distinctly colored or discolored, as provided by
12 regulations issued in accordance with this chapter, or any
13 other white powder pesticide which the department, after
14 investigation of and after public hearing on the necessity
15 for such action for the protection of the public health and
16 the environment and the feasibility of such coloration or
17 discoloration, shall by regulations require to be distinctly
18 colored or discolored, unless it has been so colored or
19 discolored. The department may exempt any pesticide to the
20 extent that it is intended for a particular use from the
21 coloring or discoloring required or authorized by this
22 section if it determines that such coloring or discoloring
23 for such use is not necessary for the protection of the
24 public health and the environment.
- 25 (e) any pesticide which is adulterated or misbranded,

1 or any device which is misbranded.

- 2 (2) It shall be ~~is~~ unlawful for any person to:
- 3 (a) detach, alter, deface, or destroy, in whole or in
4 part, any label or labeling provided for in this chapter or
5 rules promulgated hereunder or to add any substance to or
6 take any substance from a pesticide in a manner that may
7 defeat the purpose of this chapter;
- 8 (b) use for his own advantage or to reveal, other than
9 to the department or proper officials or employees of the
10 state or the courts of this state in response to a subpoena,
11 to physicians or to veterinarians or in emergencies to
12 pharmacists and other qualified persons for use in the
13 preparation of antidotes, any information relative to
14 formulas of products acquired by authority of 80-8-201."
- 15 Section 10. Section 80-8-209, MCA, is amended to read:
- 16 "80-8-209. Farm applicators. (1) Farm applicators
17 shall ~~be required to~~ obtain a certificate or special-use
18 permit prior to purchasing and using any pesticide
19 designated by the department as a restricted-use pesticide.
20 The certificate, to be issued for 5 calendar years, must be
21 renewed annually by the department or its authorized
22 representative. The 5-year certification period shall
23 commence on January 1, 1978.
- 24 (2) Restricted pesticides may not be utilized by farm
25 applicators or their employees except for the purpose of

1 producing or protecting any agricultural commodity on
2 property owned, leased, or rented or as provided in (b) of
3 this section.

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

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

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

17 (c) apply pesticides in accordance with label
18 instructions and warnings, including the ability to prepare
19 the proper concentration of pesticides to be used under
20 particular circumstances, taking into account such factors
21 as area to be covered, speed at which application equipment
22 will be driven, and the quantity dispersed in a given period
23 of operation;

24 (d) recognize local environmental situations that must
25 be considered during application to avoid contamination; and

1 (e) recognize poisoning symptoms and procedures to
2 follow in case of a pesticide accident.

3 (4) The department may require farm applicators to
4 attend a mandatory training session and pass a written
5 examination for those restricted pesticides which ~~that~~ are
6 extremely toxic or for which an effective antidote is not
7 available. The department may require farm applicators
8 handling these pesticides to maintain use records.

9 (5) Farm applicators having verified reading
10 disabilities may become certified to use up to two
11 restricted-use pesticides by passing a specific oral
12 examination on the particular pesticide(s) if the applicator
13 documents that a certified applicator in the immediate
14 vicinity can advise him.

15 (6) Provisions of this chapter relating to ~~licensing~~
16 ~~certification~~ of farm applicators ~~shall~~ do not apply to any
17 farm applicator applying nonrestricted pesticides on his own
18 land or on lands of his ~~neighbor's neighbors~~ - provided that
19 if he:

20 (a) operates farm property and operates and maintains
21 pesticide application equipment primarily for his own use;

22 (b) is not regularly engaged in the business of
23 applying pesticides for hire and does not publicly hold
24 himself out as a pesticide applicator;

25 (c) operates his pesticide application equipment only

1 in the vicinity of his own property and for the
2 accommodation of his immediate neighbors."

3 Section 11. Section 80-8-210, MCA, is amended to read:

4 "80-8-210. Licensing nonresidents. Any nonresident
5 applying for a license under this chapter to operate in the
6 ~~state of Montana~~ shall file a written power of attorney
7 designating the secretary of state as the agent of such
8 nonresident upon whom service of process may be had in the
9 event of any suit against ~~said the~~ nonresident person, and
10 such power of attorney shall be so prepared and in such form
11 as to render effective the jurisdiction of the courts ~~of the~~
12 ~~state of Montana~~ over such nonresident applicant; provided,
13 however, that any such nonresident who has a duly appointed
14 resident agent upon whom process may be ~~serviced~~ served as
15 provided by law ~~shall is~~ not be required to designate the
16 secretary of state as such agent. The secretary of state
17 shall be allowed such fees as provided by law for
18 designating resident agents. The department shall be
19 furnished with a copy of such designation of the secretary
20 of state or of a resident agent, such copy to be duly
21 certified by the secretary of state."

22 Section 12. Section 80-9-101, MCA, is amended to read:

23 "80-9-101. Definitions. Unless the context requires
24 otherwise, in this chapter the following definitions apply:

25 (1) "brand name" means any word, name, symbol, or

1 device or any combination of them identifying the
2 commercial feed of a distributor or registrant and
3 distinguishing it from that of others.

4 (2) "Commercial feed" means all materials except the
5 mixed or unmixed whole seeds or physically altered mixed or
6 unmixed entire seeds of cereal grains with or without
7 molasses added, when not adulterated within the meaning of
8 subsections (1) through (5) of 80-9-204, which are
9 distributed for use as feed or for mixing in feed. However,
10 the department may by rule exempt from this definition or
11 from specific provisions of this chapter commodities such as
12 hay, straw, stover, silage, cobs, husks, hulls, and
13 individual chemical compounds or substances when those
14 commodities, compounds, or substances are not intermixed or
15 mixed with other materials and are not adulterated within
16 the meaning of subsections (1) through (5) of 80-9-204.

17 (3) "Custom-mixed feed" means commercial feed which
18 consists of a mixture of either commercial feeds or feed
19 ingredients or both of them, each batch of which is
20 manufactured according to specifications mutually agreed to
21 by the purchaser and the manufacturer. A copy of the
22 specifications or a list of the ingredients, but not
23 necessarily the percentage of each ingredient, shall be on
24 file at the manufacturing facility.

25 (4) "Distribute" means to offer for sale, sell,

1 exchange, or barter commercial feed.

2 (5) "Distributor" means a person who distributes.

3 (6) "Drug" means any article intended for use in the
4 diagnosis, cure, mitigation, treatment, or prevention of
5 disease in animals other than man and articles other than
6 feed intended to affect the structure or function of the
7 animal body.

8 (7) "Feed ingredient" means each of the constituent
9 materials making up a commercial feed.

10 (8) "Label" means a display of written, printed, or
11 graphic matter upon or affixed to the container in which a
12 commercial feed is distributed or on the invoice or delivery
13 slip with which a commercial feed is distributed.

14 (9) "Labeling" means all labels and other written,
15 printed, or graphic matter upon a commercial feed, any of
16 its containers, its wrapper, or accompanying the commercial
17 feed.

18 (10) "Manufacture" means to grind, mix, blend, or
19 further process a commercial feed.

20 (11) "Mineral feed" means a commercial feed intended to
21 supply primarily mineral elements or inorganic nutrients.

22 (12) "Official sample" means a sample of feed taken by
23 the department in accordance with the provisions of
24 subsections (3), (5), or (6) of 80-9-301.

25 (13) "Percent" or "percentage" means percentage by

1 weights.

2 (14) "Person" means an individual, partnership,
3 corporation, and an association.

4 (15) "Pet" means any domesticated animal normally
5 maintained in or near the household of its owner.

6 (16) "Pet food" means any ~~commercial~~ commercial feed
7 prepared and distributed for consumption by pets.

8 (17) "Product name" means the name of the commercial
9 feed which identifies it as to kind, class, or specific use.

10 (18) "Specialty pet" means any domesticated animal pet
11 normally maintained in a cage or tank, including but not
12 limited to gerbils, hamsters, canaries, psittacine birds,
13 mynahs, finches, tropical fish, goldfish, snakes, and
14 turtles.

15 (19) "Specialty pet food" means any commercial feed
16 prepared and distributed for consumption by specialty pets.

17 (20) "Ton" means a net weight of 2,000 pounds
18 avoirdupois."

19 Section 13. Section 80-10-210, MCA, is amended to
20 read:

21 "80-10-210. Licensee reports -- confidentiality --
22 inspection -- failure to file. (1) Information contained in
23 the reports required by 80-10-207(3) shall be held
24 confidential by the department. Summary data published by
25 the department shall be in a form that will not disclose

1 details of any operation or business.

2 (2) The department ~~has the right to~~ **may** inspect and
3 audit, during normal business hours, each licensee's records
4 for the purpose of verifying tonnage reports.

5 (3) Failure to file an accurate report constitutes a
6 violation of this chapter and **may** be punished by fine,
7 revocation of license, or both."

-End-

1 SENATE BILL NO. 5
 2 INTRODUCTION BY Hayes
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAWS RELATING TO AGRICULTURE."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 80-2-221, MCA, is amended to read:

10 "80-2-221. Tax for hail insurance -- limitation on
 11 levy. (1) A tax is hereby authorized and directed to be
 12 levied on all lands in this state growing crops subject to
 13 injury or destruction by hail, the owners of which have
 14 elected to become subject to the provisions of this part.

15 (2) The board of hail insurance shall annually
 16 estimate, as accurately as possible, the amount required to
 17 pay all losses, interest on warrants, and costs of
 18 administration and shall recommend a levy to be made on each
 19 kind of land respectively, subject to the provisions of this
 20 part, to the department of revenue. The rates recommended to
 21 apply on the lands of owners shall be applied in the same
 22 proportions to the crops of those insured on a personal
 23 assessment basis.

24 (3) It is hereby provided, however, that such tax may
 25 not exceed in any one year \$2.40 per acre on lands sown to

1 grain crops on nonirrigated lands, \$4.80 per acre on
 2 irrigated lands, or \$2.40 per acre on lands producing hay
 3 crops.

4 (4) If the tax required to pay the estimated losses,
 5 interest on warrants, and costs of administration is less
 6 than \$1.20 per acre on lands sown to grain crops on
 7 nonirrigated lands and \$2.40 per acre on irrigated lands and
 8 a proportionate amount on lands sown to hay crops, the board
 9 of hail insurance must recommend a tax levy sufficient to
 10 raise the full amount thereof."

11 Section 2. Section 80-2-245, MCA, is amended to read:
 12 "80-2-245. Benefits exempt from execution. All money
 13 or benefits received from hail insurance ~~shall be~~ are exempt
 14 from execution, ~~and shall~~ are not be liable to attachment,
 15 ~~or to~~ and may not be seized, taken, or appropriated by any
 16 local process to pay any debt or liability of the insured
 17 unless the amount ~~shall be~~ is assigned and then for no more
 18 than the amount of the claim intended to be secured by the
 19 assignment, with lawful interest."

20 Section 3. Section 80-3-501, MCA, is amended to read:
 21 "80-3-501. Definitions. Unless the context requires
 22 otherwise, as used in this part, the following definitions
 23 apply:

24 (1) "Beans" means all varieties of the bean family
 25 (except green beans) whether grown or purchased for seed,

1 feed, or human consumption.

2 (2) "Storage" or "warehousing" means any method by
3 which beans are held for any party, other than direct
4 ownership, by the party storing the beans.

5 (3) "Warehouseman" or "person" means a dealer, shipper
6 (except grower), society, association, organization,
7 corporation, or their agents or representatives."

8 Section 4. Section 80-3-508, MCA, is amended to read:

9 "80-3-508. Records of bean dealer -- inspection --
10 receipt. (1) A dealer in beans shall keep a complete record
11 of all beans handled by him in ~~an~~ a form described ~~in~~
12 prescribed by the department. The record shall be open to
13 the confidential inspection of the department at all times.

14 (2) Every warehouseman shall issue a receipt for all
15 beans received for storage on a form approved by the
16 department.

17 (3) A person operating under this part shall keep in a
18 place of safety complete records of all beans stored by him,
19 all beans withdrawn from storage, all warehouse receipts
20 issued by him, and all the receipts returned to and canceled
21 by him and shall report to the department as required by the
22 rules of the department."

23 Section 5. Section 30-3-513, MCA, is amended to read:

24 "80-3-513. Penalties for doing business without
25 license and other violations. Any person who ~~shall engage~~

1 ~~engages~~ in or ~~carry carries~~ on any business or occupation
2 for which a license is required by this part without first
3 having obtained a license therefor or who ~~shall continue~~
4 ~~continues~~ to engage in or carry on any such business or
5 occupation after such license has been revoked or expired
6 ~~shall be deemed~~ is guilty of a misdemeanor and upon
7 conviction thereof shall be fined not less than \$25 or more
8 than \$100, and each ~~and every~~ day that such business or
9 occupation is so carried on or engaged in ~~shall be~~ is a
10 separate offense. Any person who ~~shall otherwise violate~~
11 ~~violates~~ any of the provisions of this part or ~~shall by any~~
12 manner or means ~~convert converts~~ to his own use or that of
13 another any beans so stored or accepted for storage ~~shall~~,
14 if the value of such converted beans exceeds \$500, be
15 deemed is guilty of a felony and ~~is~~ if the value is less
16 than \$500, ~~be deemed~~ is guilty of a misdemeanor and in
17 either case upon conviction shall be punished by fine or
18 imprisonment, or both, as otherwise provided by law."

19 Section 6. Section 80-4-106, MCA, is amended to read:

20 "80-4-106. Penalty for misconduct. (1) Any inspector,
21 sampler, or weigher who ~~shall be~~ is guilty of any neglect of
22 duty or who ~~shall knowingly or carelessly inspect~~ ~~inspects~~,
23 ~~sample samples~~ or weigh ~~weighs~~ any ~~gain on~~ who ~~shall~~,
24 directly or indirectly, ~~except accepts~~ any money or other
25 consideration for any neglect of duty or any improper

1 performance of duty as such inspector, sampler, or weigher
 2 or any person, persons, corporation, or agent who shall
 3 improperly influence influences or attempt attempts to
 4 improperly influence any inspector, sampler, or weigher in
 5 the performance of his duties shall-be-deemed is guilty of a
 6 misdemeanor and upon conviction thereof shall be fined
 7 punished by a fine of not less than \$100 or more than \$500
 8 or be imprisoned in the county jail not less than 30 days or
 9 more than 1 year or by both such fine and imprisonment, in
 10 the discretion of the court.

11 (2) Upon written complaint filed with the department,
 12 charging an inspector, sampler, or weigher with official
 13 misconduct, inefficiency, incompetency, or neglect of duty,
 14 the department shall investigate the charges. If the charges
 15 are substantiated, the department shall remove that
 16 officer."

17 Section 7. Section 80-5-202, MCA, is amended to read:

18 "80-5-202. Licensing -- issuance -- application -- fee
 19 -- bonding -- insurance. (1) All seed processing plants,
 20 seed labelers, seed buyers, and public agricultural seed
 21 warehouses shall obtain a license from the department before
 22 doing business in this state; however, a Montana certified
 23 seed grower, when processing or labeling certified seed from
 24 his own production, is not required to be licensed under
 25 this section. Bin-run seed sales from one farmer to another

1 are exempt from this part.

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

6 (3) Application for license is made in a manner and on
 7 forms provided by the department. A nonresident shall file a
 8 written power of attorney designating the secretary of state
 9 as his agent, and the power of attorney shall be so prepared
 10 and in such form as to render effective the jurisdiction of
 11 the courts of the state of Montana over the nonresident
 12 applicant. A nonresident who has a duly appointed resident
 13 agent upon whom process may be served served as provided
 14 by law is not required to designate the secretary of state
 15 as his agent. The department shall be furnished with a
 16 certified copy of the designation of the secretary of state
 17 or of a resident agent.

18 (4) The department may establish by rule minimum
 19 standards for equipment and handling procedures for
 20 facilities to be licensed and may carry out inspections
 21 during normal business hours to determine that these
 22 standards are being adhered to.

23 (5) Each license shall cost no more than \$50 a year.
 24 The department may by rule establish license fees which bear
 25 a reasonable relationship to the cost of administering this

1 part.

2 (6) Failure on the part of a licensee to comply with
3 the rules issued under the authority of this section is
4 sufficient cause for cancellation of a license by the
5 department, provided the licensee is given a reasonable
6 opportunity to correct inadvertent and nonrecurring
7 deficiencies.

8 (7) The department may by rule establish bonding and
9 insurance requirements for each class of license."

10 Section 8. Section 80-5-206, MCA, is amended to read:

11 "80-5-206. Rules -- promulgated by department. The
12 department is authorized to promulgate necessary rules as
13 authorized by this part. All rules are to be promulgated in
14 accordance with procedures as set forth in the Montana
15 Administrative Procedure Act."

16 Section 9. Section 80-8-202, MCA, is amended to read:

17 "80-8-202. Prohibited acts. (1) It shall ~~be~~ is
18 unlawful for any person to distribute, sell, or offer for
19 sale within this state or deliver for transportation or
20 transport in intrastate commerce between points within this
21 state any of the following:

22 (a) any pesticide which has not been registered
23 pursuant to the provisions of 80-8-201 or any pesticide if
24 any of the claims made for it or any of the directions for
25 its use differ in substance from the representations made in

1 connection with its registration or if the composition of a
2 pesticide differs from its composition as represented in
3 connection with its registration or if registration or
4 reregistration has been refused, revoked, canceled, or
5 suspended. The department of agriculture may allow a change
6 in the labeling or formula of a pesticide within a
7 registration period without requiring reregistration of the
8 produce ~~product~~ when such change does not adversely affect
9 the product for its intended use and if proper application
10 therefor is made.

11 (b) any pesticide unless it is in the registrant's or
12 the manufacturer's unbroken immediate container and there is
13 affixed to such container and to the outside container or
14 wrapper of the retail package, if there be one, through
15 which the required information on the immediate container
16 cannot be clearly read, a label bearing:

17 (i) the name and address of the manufacturer,
18 registrant, or person for whom manufactured;

19 (ii) the trade and chemical name, brand, or trademark
20 under which said article is sold;

21 (iii) the net weight or measure of the contents,
22 subject however to such reasonable variations as the
23 department may permit;

24 (c) any pesticide which contains any substance or
25 substances in quantities highly toxic to man, determined as

1 provided in 80-8-105, unless the label shall bear, in
2 addition to any other matter required by this chapter:

- 3 (i) the skull and crossbones;
- 4 (ii) the word "poison" prominently in red on a
5 background of distinctly contrasting color;
- 6 (iii) a statement of an antidote for the pesticide;
- 7 (d) the pesticides commonly known as standard lead
8 arsenate, basic lead arsenate, calcium arsenate, magnesium
9 arsenate, zinc arsenate, zinc arsenite, sodium fluoride,
10 sodium fluosilicate, and barium fluosilicate, unless they
11 have been distinctly colored or discolored, as provided by
12 regulations issued in accordance with this chapter, or any
13 other white powder pesticide which the department, after
14 investigation of and after public hearing on the necessity
15 for such action for the protection of the public health and
16 the environment and the feasibility of such coloration or
17 discoloration, shall by regulations require to be distinctly
18 colored or discolored, unless it has been so colored or
19 discolored. The department may exempt any pesticide to the
20 extent that it is intended for a particular use from the
21 coloring or discoloring required or authorized by this
22 section if it determines that such coloring or discoloring
23 for such use is not necessary for the protection of the
24 public health and the environment.
- 25 (e) any pesticide which is adulterated or misbranded,

1 or any device which is misbranded.

- 2 (2) It shall be ~~is~~ unlawful for any person to:
- 3 (a) detach, alter, deface, or destroy, in whole or in
4 part, any label or labeling provided for in this chapter or
5 rules promulgated hereunder or to add any substance to or
6 take any substance from a pesticide in a manner that may
7 defeat the purpose of this chapter;
- 8 (b) use for his own advantage or to reveal, other than
9 to the department or proper officials or employees of the
10 state or the courts of this state in response to a subpoena,
11 to physicians or to veterinarians or in emergencies to
12 pharmacists and other qualified persons for use in the
13 preparation of antidotes, any information relative to
14 formulas of products acquired by authority of 80-8-201."
- 15 Section 10. Section 80-8-209, MCA, is amended to read:
- 16 "80-8-209. Farm applicators. (1) Farm applicators
17 shall be required to obtain a certificate or special-use
18 permit prior to purchasing and using any pesticide
19 designated by the department as a restricted-use pesticide.
20 The certificate, to be issued for 5 calendar years, must be
21 renewed annually by the department or its authorized
22 representative. The 5-year certification period shall
23 commence on January 1, 1978.
- 24 (2) Restricted pesticides may not be utilized by farm
25 applicators or their employees except for the purpose of

1 producing or protecting any agricultural commodity on
2 property owned, leased, or rented or as provided in (6) of
3 this section.

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

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

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

17 (c) apply pesticides in accordance with label
18 instructions and warnings, including the ability to prepare
19 the proper concentration of pesticides to be used under
20 particular circumstances, taking into account such factors
21 as area to be covered, speed at which application equipment
22 will be driven, and the quantity dispersed in a given period
23 of operation;

24 (d) recognize local environmental situations that must
25 be considered during application to avoid contamination; and

1 (e) recognize poisoning symptoms and procedures to
2 follow in case of a pesticide accident.

3 (4) The department may require farm applicators to
4 attend a mandatory training session and pass a written
5 examination for those restricted pesticides which ~~that~~ are
6 extremely toxic or for which an effective antidote is not
7 available. The department may require farm applicators
8 handling these pesticides to maintain use records.

9 (5) Farm applicators having verified reading
10 disabilities may become certified to use up to two
11 restricted-use pesticides by passing a specific oral
12 examination on the particular pesticide(s) if the applicator
13 documents that a certified applicator in the immediate
14 vicinity can advise him.

15 (6) Provisions of this chapter relating to licensing
16 ~~certification~~ of farm applicators shall ~~do~~ not apply to any
17 farm applicator applying nonrestricted pesticides on his own
18 land or on lands of his neighbor's ~~neighbors~~, provided that
19 if he:

20 (a) operates farm property and operates and maintains
21 pesticide application equipment primarily for his own use;

22 (b) is not regularly engaged in the business of
23 applying pesticides for hire and does not publicly hold
24 himself out as a pesticide applicator;

25 (c) operates his pesticide application equipment only

1 in the vicinity of his own property and for the
2 accommodation of his immediate neighbors."

3 Section 11. Section 80-8-210, MCA, is amended to read:

4 "80-8-210. Licensing nonresidents. Any nonresident
5 applying for a license under this chapter to operate in the
6 state of Montana shall file a written power of attorney
7 designating the secretary of state as the agent of such
8 nonresident upon whom service of process may be had in the
9 event of any suit against ~~said~~ the nonresident person, and
10 such power of attorney shall be so prepared and in such form
11 as to render effective the jurisdiction of the courts of ~~the~~
12 state of Montana over such nonresident applicant; provided,
13 however, that any such nonresident who has a duly appointed
14 resident agent upon whom process may be served ~~served~~ as
15 provided by law ~~shall~~ is not be required to designate the
16 secretary of state as such agent. The secretary of state
17 shall be allowed such fees as provided by law for
18 designating resident agents. The department shall be
19 furnished with a copy of such designation of the secretary
20 of state or of a resident agent, such copy to be duly
21 certified by the secretary of state."

22 Section 12. Section 80-9-101, MCA, is amended to read:

23 "80-9-101. Definitions. Unless the context requires
24 otherwise, in this chapter the following definitions apply:

25 (1) "brand name" means any word, name, symbol, or

1 device or any combination of them identifying the
2 commercial feed of a distributor or registrant and
3 distinguishing it from that of others.

4 (2) "Commercial feed" means all materials except the
5 mixed or unmixed whole seeds or physically altered mixed or
6 unmixed entire seeds of cereal grains with or without
7 molasses added, when not adulterated within the meaning of
8 subsections (1) through (5) of 80-9-204, which are
9 distributed for use as feed or for mixing in feed. However,
10 the department may by rule exempt from this definition or
11 from specific provisions of this chapter commodities such as
12 hay, straw, stover, silage, cobs, husks, hulls, and
13 individual chemical compounds or substances when those
14 commodities, compounds, or substances are not intermixed or
15 mixed with other materials and are not adulterated within
16 the meaning of subsections (1) through (5) of 80-9-204.

17 (3) "Custom-mixed feed" means commercial feed which
18 consists of a mixture of either commercial feeds or feed
19 ingredients or both of them, each batch of which is
20 manufactured according to specifications mutually agreed to
21 by the purchaser and the manufacturer. A copy of the
22 specifications or a list of the ingredients, but not
23 necessarily the percentage of each ingredient, shall be on
24 file at the manufacturing facility.

25 (4) "Distribute" means to offer for sale, sell,

1 exchange, or barter commercial feed.

2 (5) "Distributor" means a person who distributes.

3 (6) "Drug" means any article intended for use in the
4 diagnosis, cure, mitigation, treatment, or prevention of
5 disease in animals other than man and articles other than
6 feed intended to affect the structure or function of the
7 animal body.

8 (7) "Feed ingredient" means each of the constituent
9 materials making up a commercial feed.

10 (8) "Label" means a display of written, printed, or
11 graphic matter upon or affixed to the container in which a
12 commercial feed is distributed or on the invoice or delivery
13 slip with which a commercial feed is distributed.

14 (9) "Labeling" means all labels and other written,
15 printed, or graphic matter upon a commercial feed, any of
16 its containers, its wrappers, or accompanying the commercial
17 feed.

18 (10) "Manufacture" means to grind, mix, blend, or
19 further process a commercial feed.

20 (11) "Mineral feed" means a commercial feed intended to
21 supply primarily mineral elements or inorganic nutrients.

22 (12) "Official sample" means a sample of feed taken by
23 the department in accordance with the provisions of
24 subsections (3), (5), or (6) of 80-9-301.

25 (13) "Percent" or "percentage" means percentage by

1 weights.

2 (14) "Person" means an individual, partnership,
3 corporation, and an association.

4 (15) "Pet" means any domesticated animal normally
5 maintained in or near the household of its owner.

6 (16) "Pet food" means any commercial ~~commercial~~ feed
7 prepared and distributed for consumption by pets.

8 (17) "Product name" means the name of the commercial
9 feed which identifies it as to kind, class, or specific use.

10 (18) "Specialty pet" means any domesticated animal pet
11 normally maintained in a cage or tank, including but not
12 limited to gerbils, hamsters, canaries, psittacine birds,
13 mynahs, finches, tropical fish, goldfish, snakes, and
14 turtles.

15 (19) "Specialty pet food" means any commercial feed
16 prepared and distributed for consumption by specialty pets.

17 (20) "Ton" means a net weight of 2,000 pounds
18 avoirdupois.

19 Section 13. Section 80-10-210, MCA, is amended to
20 read:

21 "80-10-210. License reports -- confidentiality --
22 inspection -- failure to file. (1) Information contained in
23 the reports required by 80-10-203(2) shall be held
24 confidential by the department. Summary data published by
25 the department shall be in a form that will not disclose

1 details of any operation or business.

2 (2) The department ~~has the right to~~ **may** inspect and
3 audit, during normal business hours, each licensee's records
4 for the purpose of verifying tonnage reports.

5 (3) Failure to file an accurate report constitutes a
6 violation of this chapter and may be punished by fine,
7 revocation of license, or both.*

-End-

SENATE BILL NO. 5

INTRODUCED BY HAGER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO AGRICULTURE."

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

Section 1. Section 80-2-221, MCA, is amended to read:

"80-2-221. Tax for hail insurance -- limitation on levy. (1) A tax is hereby authorized and directed to be levied on all lands in this state growing crops subject to injury or destruction by hail, the owners of which have elected to become subject to the provisions of this part.

(2) The board of hail insurance shall annually estimate, as accurately as possible, the amount required to pay all losses, interest on warrants, and costs of administration and shall recommend a levy to be made on each kind of land respectively, subject to the provisions of this part, to the department of revenue. The rates recommended to apply on the lands of owners shall be applied in the same proportions to the crops of those insured on a personal assessment basis.

(3) It is hereby provided, however, that such tax may not exceed in any one year \$2.40 per acre on lands sown to

grain crops on nonirrigated lands, \$4.80 per acre on irrigated lands, or \$2.40 per acre on lands producing hay crops.

(4) If the tax required to pay the estimated losses, interest on warrants, and costs of administration is less than \$1.20 per acre on lands sown to grain crops on nonirrigated lands and \$2.40 per acre on irrigated lands and a proportionate amount on lands sown to hay crops, the board of hail insurance must recommend a tax levy sufficient to raise the full amount thereof."

Section 2. Section 80-2-245, MCA, is amended to read:

"80-2-245. Benefits exempt from execution. All money or benefits received from hail insurance shall be exempt from execution, and shall not be liable to attachment or to and may not be seized, taken, or appropriated by any local process to pay any debt or liability of the insured unless the amount shall be assigned and then for no more than the amount of the claim intended to be secured by the assignment, with lawful interest."

Section 3. Section 80-3-501, MCA, is amended to read:

"80-3-501. Definitions. Unless the context requires otherwise, as used in this part, the following definitions apply:

(1) "Beans" means all varieties of the bean family (except green beans) whether grown or purchased for seed,

1 feed, or human consumption.

2 (2) "Storage" or "warehousing" means any method by
3 which beans are held for any party, other than direct
4 ownership, by the party storing the beans.

5 (3) "Warehouseman" or "person" means a dealer, shipper
6 (except grower), society, association, organization,
7 corporation, or their agents or representatives."

8 Section 4. Section 80-3-508, MCA, is amended to read:

9 "80-3-508. Records of bean dealer -- inspection --
10 receipt. (1) A dealer in beans shall keep a complete record
11 of all beans handled by him in on a form described--in
12 prescribed by the department. The record shall be open to
13 the confidential inspection of the department at all times.

14 (2) Every warehouseman shall issue a receipt for all
15 beans received for storage on a form approved by the
16 department.

17 (3) A person operating under this part shall keep in a
18 place of safety complete records of all beans stored by him,
19 all beans withdrawn from storage, all warehouse receipts
20 issued by him, and all the receipts returned to and canceled
21 by him and shall report to the department as required by the
22 rules of the department."

23 Section 5. Section 80-3-513, MCA, is amended to read:

24 "80-3-513. Penalties for doing business without
25 license and other violations. Any person who shall--engage

1 ~~engage~~ in or ~~carry~~ carries on any business or occupation
2 for which a license is required by this part without first
3 having obtained a license therefor or who shall--~~continue~~
4 continues to engage in or carry on any such business or
5 occupation after such license has been revoked or expired
6 shall--~~be--deemed~~ is guilty of a misdemeanor and upon
7 conviction thereof shall be fined not less than \$25 or more
8 than \$100, and each end--every day that such business or
9 occupation is so carried on or engaged in shall--~~be~~ is a
10 separate offense. Any person who shall otherwise violate
11 violates any of the provisions of this part or shall by any
12 manner or means convert converts to his own use or that of
13 another any beans so stored or accepted for storage shall,
14 if the value of such converted beans exceeds \$500, be
15 deemed is guilty of a felony and or, if the value is less
16 than \$500, be--~~deemed~~ is guilty of a misdemeanor and in
17 either case upon conviction shall be punished by fine or
18 imprisonment, or both, as otherwise provided by law."

19 Section 6. Section 80-4-106, MCA, is amended to read:

20 "80-4-106. Penalty for misconduct. (1) Any inspector,
21 sampler, or weigher who shall--~~be~~ is guilty of any neglect of
22 duty or who shall knowingly or carelessly inspect inspects,
23 ~~sample~~ samples, or weigh weighs any grain or who shall,
24 directly or indirectly, accept accepts any money or other
25 consideration for any neglect of duty or any imp per

1 performance of duty as such inspector, sampler, or weigher
 2 or any person, persons, corporation, or agent who shall
 3 improperly ~~influence~~ influences or attempt ~~attempts~~ to
 4 improperly influence any inspector, sampler, or weigher in
 5 the performance of his duties shall ~~be deemed~~ is guilty of a
 6 misdemeanor and upon conviction thereof shall be ~~fin~~
 7 punished by a fine of not less than \$100 or more than \$500
 8 or be imprisoned in the county jail not less than 30 days or
 9 more than 1 year or by both such fine and imprisonment, in
 10 the discretion of the court.

11 (2) Upon written complaint filed with the department,
 12 charging an inspector, sampler, or weigher with official
 13 misconduct, inefficiency, incompetency, or neglect of duty,
 14 the department shall investigate the charges. If the charges
 15 are substantiated, the department shall remove that
 16 officer."

17 Section 7. Section 80-5-202, MCA, is amended to read:
 18 "80-5-202. Licensing -- issuance -- application -- fee
 19 -- bonding -- insurance. (1) All seed processing plants,
 20 seed labelers, seed buyers, and public agricultural seed
 21 warehouses shall obtain a license from the department before
 22 doing business in this state; however, a Montana certified
 23 seed grower, when processing or labeling certified seed from
 24 his own production, is not required to be licensed under
 25 this section. Bin-run seed sales from one farmer to another

1 are exempt from this part.

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

6 (3) Application for license is made in a manner and on
 7 forms provided by the department. A nonresident shall file a
 8 written power of attorney designating the secretary of state
 9 as his agent, and the power of attorney shall be so prepared
 10 and in such form as to render effective the jurisdiction of
 11 the courts of the state of Montana over the nonresident
 12 applicant. A nonresident who has a duly appointed resident
 13 agent upon whom process may be served ~~as~~ as provided
 14 by law is not required to designate the secretary of state
 15 as his agent. The department shall be furnished with a
 16 certified copy of the designation of the secretary of state
 17 or of a resident agent.

18 (4) The department may establish by rule minimum
 19 standards for equipment and handling procedures for
 20 facilities to be licensed and may carry out inspections
 21 during normal business hours to determine that these
 22 standards are being adhered to.

23 (5) Each license shall cost no more than \$50 a year.
 24 The department may by rule establish license fees which bear
 25 a reasonable relationship to the cost of administering this

1 part.

2 (6) Failure on the part of a licensee to comply with
3 the rules issued under the authority of this section is
4 sufficient cause for cancellation of a license by the
5 department, provided the licensee is given a reasonable
6 opportunity to correct inadvertent and nonrecurring
7 deficiencies.

8 (7) The department may by rule establish bonding and
9 insurance requirements for each class of license."

10 Section 8. Section 80-5-206, MCA, is amended to read:

11 "80-5-206. Rules -- promulgated by department. The
12 department is authorized to promulgate necessary rules as
13 authorized by this part. All rules are ~~to be~~ promulgated in
14 accordance with procedures as set forth in the Montana
15 Administrative Procedure Act."

16 Section 9. Section 80-8-202, MCA, is amended to read:

17 "80-8-202. Prohibited acts. (1) It ~~shall--be~~ is
18 unlawful for any person to distribute, sell, or offer for
19 sale within this state or deliver for transportation or
20 transport in intrastate commerce between points within this
21 state any of the following:

22 (a) any pesticide which has not been registered
23 pursuant to the provisions of 80-8-201 or any pesticide if
24 any of the claims made for it or any of the directions for
25 its use differ in substance from the representations made in

1 connection with its registration or if the composition of a
2 pesticide differs from its composition as represented in
3 connection with its registration or if registration or
4 reregistration has been refused, revoked, canceled, or
5 suspended. The department of agriculture may allow a change
6 in the labeling or formula of a pesticide within a
7 registration period without requiring reregistration of the
8 produce ~~product~~ when such change does not adversely affect
9 the product for its intended use and if proper application
10 therefor is made.

11 (b) any pesticide unless it is in the registrant's or
12 the manufacturer's unbroken immediate container and there is
13 affixed to such container and to the outside container or
14 wrapper of the retail package, if there be one, through
15 which the required information on the immediate container
16 cannot be clearly read, a label bearing:

17 (i) the name and address of the manufacturer
18 registrant, or person for whom manufactured;
19 (ii) the trade and chemical name, brand, or trademark
20 under which said article is sold;
21 (iii) the net weight or measure of the content~~s~~
22 subject however to such reasonable variations as the
23 department may permit;

24 (c) any pesticide which contains any substance or
25 substances in quantities highly toxic to man, determin as

1 provided in 80-8-105, unless the label shall bear, in
2 addition to any other matter required by this chapter:

- 3 (i) the skull and crossbones;
- 4 (ii) the word "poison" prominently in red on a
5 background of distinctly contrasting color;
- 6 (iii) a statement of an antidote for the pesticide;
- 7 (d) the pesticides commonly known as standard lead
8 arsenate, basic lead arsenate, calcium arsenate, magnesium
9 arsenate, zinc arsenate, zinc arsenite, sodium fluoride,
10 sodium fluosilicate, and barium fluosilicate, unless they
11 have been distinctly colored or discolored, as provided by
12 regulations issued in accordance with this chapter, or any
13 other white powder pesticide which the department, after
14 investigation of and after public hearing on the necessity
15 for such action for the protection of the public health and
16 the environment and the feasibility of such coloration or
17 discoloration, shall by regulations require to be distinctly
18 colored or discolored, unless it has been so colored or
19 discolored. The department may exempt any pesticide to the
20 extent that it is intended for a particular use from the
21 coloring or discoloring required or authorized by this
22 section if it determines that such coloring or discoloring
23 for such use is not necessary for the protection of the
24 public health and the environment.
- 25 (e) any pesticide which is adulterated or misbranded,

1 or any device which is misbranded.

2 (2) It shall be ~~is~~ unlawful for any person to:

- 3 (a) detach, alter, deface, or destroy, in whole or in
4 part, any label or labeling provided for in this chapter or
5 rules promulgated hereunder or to add any substance to or
6 take any substance from a pesticide in a manner that may
7 defeat the purpose of this chapter;
- 8 (b) use for his own advantage or to reveal, other than
9 to the department, or proper officials or employees of the
10 state or the courts of this state in response to a subpoena,
11 to physicians or to veterinarians or in emergencies to
12 pharmacists and other qualified persons for use in the
13 preparation of antidotes, any information relative to
14 formulas of products acquired by authority of 80-8-201."

15 Section 10. Section 80-8-209, MCA, is amended to read:

16 "80-8-209. Farm applicators. (1) Farm applicators
17 shall ~~be required to~~ obtain a certificate or special-use
18 permit prior to purchasing and using any pesticide
19 designated by the department as a restricted-use pesticide.
20 The certificate, to be issued for 5 calendar years, must be
21 renewed annually by the department or its authorized
22 representative. The 5-year certification period shall
23 commence on January 1, 1978.

24 (2) Restricted pesticides may not be utilized by farm
25 applicators or their employees except for the purpose of

1 producing or protecting any agricultural commodity on
2 property owned, leased, or rented or as provided in (6) of
3 this section.

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

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

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

17 (c) apply pesticides in accordance with label
18 instructions and warnings, including the ability to prepare
19 the proper concentration of pesticides to be used under
20 particular circumstances, taking into account such factors
21 as area to be covered, speed at which application equipment
22 will be driven, and the quantity dispersed in a given period
23 of operation;

24 (d) recognize local environmental situations that must
25 be considered during application to avoid contamination; and

1 (e) recognize poisoning symptoms and procedures to
2 follow in case of a pesticide accident.

3 (4) The department may require farm applicators to
4 attend a mandatory training session and pass a written
5 examination for those restricted pesticides which ~~that~~ are
6 extremely toxic or for which an effective antidote is not
7 available. The department may require farm applicators
8 handling these pesticides to maintain use records.

9 (5) Farm applicators having verified reading
10 disabilities may become certified to use up to two
11 restricted-use pesticides by passing a specific oral
12 examination on the particular pesticide(s) if the applicator
13 documents that a certified applicator in the immediate
14 vicinity can advise him.

15 (6) Provisions of this chapter relating to ~~licensing~~
16 certification of farm applicators shall ~~do~~ not apply to any
17 farm applicator applying nonrestricted pesticides on his own
18 land or on lands of his neighbor's ~~neighbor's~~ neighborhood provided that
19 if he:

20 (a) operates farm property and operates and maintains
21 pesticide application equipment primarily for his own use;

22 (b) is not regularly engaged in the business of
23 applying pesticides for hire and does not publicly hold
24 himself out as a pesticide applicator;

25 (c) operates his pesticide application equipment only

1 in the vicinity of his own property and for the
2 accommodation of his immediate neighbors."

3 Section 11. Section 80-8-210, MCA, is amended to read:

4 "80-8-210. Licensing nonresidents. Any nonresident
5 applying for a license under this chapter to operate in the
6 state of Montana shall file a written power of attorney
7 designating the secretary of state as the agent of such
8 nonresident upon whom service of process may be had in the
9 event of any suit against ~~said~~ ~~the~~ nonresident person, and
10 such power of attorney shall be so prepared and in such form
11 as to render effective the jurisdiction of the courts of ~~the~~
12 state of Montana over such nonresident applicant; provided,
13 however, that any such nonresident who has a duly appointed
14 resident agent upon whom process may be serviced ~~servd~~ as
15 provided by law ~~shall~~ ~~is~~ not be required to designate the
16 secretary of state as such agent. The secretary of state
17 shall be allowed such fees as provided by law for
18 designating resident agents. The department shall be
19 furnished with a copy of such designation of the secretary
20 of state or of a resident agent, such copy to be duly
21 certified by the secretary of state."

22 Section 12. Section 80-9-101, MCA, is amended to read:

23 "80-9-101. Definitions. Unless the context requires
24 otherwise, in this chapter the following definitions apply:
25 (1) "Brand name" means any word, name, symbol, or

1 device or any combination of them identifying the
2 commercial feed of a distributor or registrant and
3 distinguishing it from that of others.

4 (2) "Commercial feed" means all materials except the
5 mixed or unmixed whole seeds or physically altered mixed or
6 unmixed entire seeds of cereal grains with or without
7 molasses added, when not adulterated within the meaning of
8 subsections (1) through (5) of 80-9-204, which are
9 distributed for use as feed or for mixing in feed. However,
10 the department may by rule exempt from this definition or
11 from specific provisions of this chapter commodities such as
12 hay, straw, stover, silage, cobs, husks, hulls, and
13 individual chemical compounds or substances when those
14 commodities, compounds, or substances are not intermixed or
15 mixed with other materials and are not adulterated within
16 the meaning of subsections (1) through (5) of 80-9-204.

17 (3) "Custom-mixed feed" means commercial feed which
18 consists of a mixture of either commercial feeds or feed
19 ingredients or both of them, each batch of which is
20 manufactured according to specifications mutually agreed to
21 by the purchaser and the manufacturer. A copy of the
22 specifications or a list of the ingredients, but not
23 necessarily the percentage of each ingredient, shall be on
24 file at the manufacturing facility.

25 (4) "Distribute" means to offer for sale, sell,

1 exchange, or barter commercial feed.

2 (5) "Distributor" means a person who distributes.

3 (6) "Drug" means any article intended for use in the
4 diagnosis, cure, mitigation, treatment, or prevention of
5 disease in animals other than man and articles other than
6 feed intended to affect the structure or function of the
7 animal body.

8 (7) "Feed ingredient" means each of the constituent
9 materials making up a commercial feed.

10 (8) "Label" means a display of written, printed, or
11 graphic matter upon or affixed to the container in which a
12 commercial feed is distributed or on the invoice or delivery
13 slip with which a commercial feed is distributed.

14 (9) "Labeling" means all labels and other written,
15 printed, or graphic matter upon a commercial feed, any of
16 its containers, its wrapper, or accompanying the commercial
17 feed.

18 (10) "Manufacture" means to grind, mix, blend, or
19 further process a commercial feed.

20 (11) "Mineral feed" means a commercial feed intended to
21 supply primarily mineral elements or inorganic nutrients.

22 (12) "Official sample" means a sample of feed taken by
23 the department in accordance with the provisions of
24 subsections (3), (5), or (6) of 80-9-301.

25 (13) "Percent" or "percentage" means percentage by

1 weights.

2 (14) "Person" means an individual, partnership,
3 corporation, and ~~an~~ association.

4 (15) "Pet" means any domesticated animal normally
5 maintained in or near the household of its owner.

6 (16) "Pet food" means any commercial ~~commercial~~ feed
7 prepared and distributed for consumption by pets.

8 (17) "Product name" means the name of the commercial
9 feed which identifies it as to kind, class, or specific use.

10 (18) "Specialty pet" means any domesticated animal pet
11 normally maintained in a cage or tank, including but not
12 limited to gerbils, hamsters, canaries, psittacine birds,
13 mynahs, finches, tropical fish, goldfish, snakes, and
14 turtles.

15 (19) "Specialty pet food" means any commercial feed
16 prepared and distributed for consumption by specialty pets.

17 (20) "Ton" means a net weight of 2,000 pound-
18 avoirdupois."

19 Section 13. Section 80-10-210, MCA, is amended to
20 read:

21 "80-10-210. Licensee reports -- confidentiality --
22 inspection -- failure to file. (1) Information contained in
23 the reports required by 80-10-207(3) shall be held
24 confidential by the department. Summary data published by
25 the department shall be in a form that will not disclose

1 details of any operation or business.

2 (2) The department ~~has-the-right-to~~ may inspect and
3 audit, during normal business hours, each licensee's records
4 for the purpose of verifying tonnage reports.

5 (3) Failure to file an accurate report constitutes a
6 violation of this chapter and may be punished by fine,
7 revocation of license, or both.*

-End-