

SENATE BILL NO. 415

INTRODUCED BY CONOVER, GRAHAM, BOYLAN

IN THE SENATE

February 15, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 18, 1983	Committee recommend bill do pass. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 49; Noes. 0. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 17, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

IN THE SENATE

March 23, 1983	Returned to Senate with amendments.
March 30, 1983	Second reading, amendments concurred in.

March 31, 1983

Third reading, amendments
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 415
 2 INTRODUCED BY *Conrad Stetson Doyle*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
 5 CERTAIN SECTIONS RELATING TO AGRICULTURAL SEED; AMENDING
 6 SECTIONS 80-5-101, 80-5-102, 80-5-104, 80-5-107, 80-5-112,
 7 AND 80-5-201 THROUGH 80-5-204, MCA; AND PROVIDING AN
 8 IMMEDIATE EFFECTIVE DATE."

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

11 Section 1. Section 80-5-101, MCA, is amended to read:

12 "80-5-101. Definitions. Terms used in this part and
 13 not otherwise identified are hereby defined:

14 (1) Agricultural seeds ~~shall~~ be are the seeds of
 15 grass, forage, cereal, and fiber crops and any other kinds
 16 of seeds commonly recognized within this state as
 17 agricultural seeds and ~~shall~~ include lawn seeds and mixtures
 18 of seeds.

19 (2) Vegetable seeds ~~shall~~ include the seeds of those
 20 crops that are or may be grown in gardens or on truck farms
 21 and are or may be sold generally under the name of vegetable
 22 seeds.

23 (3) Flower seeds ~~shall~~ include seeds of herbaceous
 24 plants grown for their blooms, ornamental foliage, or other
 25 ornamental parts and are commonly known and sold under the

1 name of flower seeds in this state.

2 ~~(4) Indigenous seeds include the seeds of those plants~~
 3 ~~that are naturally adapted to an area where the intended use~~
 4 ~~is for revegetation of disturbed sites. These species~~
 5 ~~include grasses, forbs, shrubs, and legumes.~~

6 ~~††(5) (a) The term "weed seeds" shall include~~
 7 ~~includes the seeds or bulblets of all plants generally~~
 8 ~~recognized as weeds within this state and shall include~~
 9 ~~includes noxious weed seeds.~~

10 (b) Noxious weed seeds are divided into two groups
 11 defined as follows:

12 (i) "Prohibited noxious weed seeds" are the seeds of
 13 perennial and other serious weeds that not only reproduce by
 14 seed but also may spread by underground roots, stems, and
 15 other reproductive parts and which, when well established,
 16 are highly destructive and difficult to control in this
 17 state by ordinary good cultural practice. Prohibited noxious
 18 weed seeds ~~shall~~ include the seeds of:

- | | | |
|----|----------------------|------------------------|
| 19 | Canada thistle | (Cirsium arvense) |
| 20 | leafy spurge | (Euphorbia esula) |
| 21 | hoary cress | (Cardaria draba) |
| 22 | quackgrass | (Agropyron repens) |
| 23 | Russian knapweed | (Centaurea repens) |
| 24 | perennial sowthistle | (Sonchus arvensis) |
| 25 | field bindweed | (Convolvulus arvensis) |

1	dalmatian toadflax	(<i>Linaria dalmatica</i>)
2	halogeton	(<i>Halogeton glomeratus</i>)
3	medusa-head wildrye	(<i>Elymus caput-medusae</i>)
4	creeping bellflower	(<i>Campanula rapunculoides</i>)
5	yellow toadflax	(<i>Linaria vulgaris</i>)

6 (ii) "Restricted noxious weed seeds" are the seeds of
7 weeds that are very objectionable in fields, lawns, and
8 gardens of this state but can be controlled by good cultural
9 practices. Restricted noxious weed seeds shall include the
10 seeds of:

11	dodder	(<i>Cuscuta</i> spp.)
12	blue lettuce	(<i>Lactuca pulchella</i>)
13	St.-Johnswort	(<i>Hypericum perforatum</i>)
14	oxeye daisy	(<i>Chrysanthemum leucanthemum</i>)
15	spotted knapweed	(<i>Centaurea maculosa</i>)
16	hoary alyssum	(<i>Berteroa incana</i>)
17	wild oats	(<i>Avena fatua</i>)
18	buckhorn plantain	(<i>Plantago lanceolata</i>)
19	chickweed	(<i>Stellaria</i> spp.)
20	curly dock	(<i>Rumex crispus</i>)

21 (5)(6) The term "hybrid" applied to kinds of varieties
22 of seed means the first generation seed of a cross produced
23 by controlling the pollination and by combining:

- 24 (a) two or more inbred lines;
25 (b) one inbred or a single cross with an open

1 pollinated variety; or

2 (c) two or more selected clones, seed lines,
3 varieties, or species.

4 (6)(1) "Controlling the pollination" means to use a
5 method hybridization which will produce pure seed which is
6 at least 75% hybrid seed. Hybrid designations shall be
7 treated as variety names.

8 (7)(8) The terms "approximate percentage" and
9 "approximate number" shall mean the percentage or number
10 with the variations above or below as allowed according to
11 the tolerance limits defined in the "rules for seed testing"
12 adopted by the association of official seed analysts.

13 (8)(9) The term "percentage of germination" shall mean
14 means the percentage of seeds which show normal sprouts as
15 evidence of vitality when the seeds are subjected to the
16 proper moisture and temperature conditions with proper
17 aeration for the customary length of time for each specific
18 kind of seed, as specified in the "rules for seed testing"
19 adopted by the association of official seed analysts.

20 (10) The term "percentage viability" refers to the
21 percentage of live seed capable of producing a normal
22 seedling under optimum growing conditions, after all forms
23 of dormancy have been overcome, if present.

24 (9)(11) The term "name of state in which the seed was
25 grown" shall mean means any of the several states of the

1 United States or the foreign country.

2 ~~(12) The term "labeling" means to affix, before~~
 3 ~~offering the seed for sale, in a conspicuous place on the~~
 4 ~~exterior of the container a written or printed label, in the~~
 5 ~~English language, giving the required information.~~

6 ~~(13)~~ (13) The term "other crop seeds" shall mean means
 7 any agricultural, vegetable, or flower seeds other than the
 8 seed or the mixture of seeds under consideration.

9 ~~(14)~~ (14) The term "sell" shall include includes "offer
 10 for sale", "expose for sale", "have in possession for sale",
 11 "exchange", "barter", or "trade". It shall also include
 12 includes agricultural seeds which that are furnished to
 13 growers for the production of a crop on contract.

14 ~~(15)~~ (15) The term "certifying agency" means:

15 (a) an agency authorized under the laws of a state,
 16 territory, or possession to officially certify seed and
 17 which has standards and procedures to assure the genetic
 18 purity and identity of the seed certified; or

19 (b) an agency of a foreign country determined by the
 20 department to adhere to procedures and standards for seed
 21 certification comparable to those adhered to generally by
 22 seed certifying agencies under subsection ~~(15)(a)~~ (15)(a) of
 23 this section.

24 ~~(16)~~ (16) The term "protected variety" means a variety
 25 for which a certificate has been issued by the U.S. plant

1 variety protection office or for which an application for
 2 protection has been filed granting the owner or his
 3 authorized agent exclusive rights in the sale and
 4 distribution of the variety."

5 Section 2. Section 80-5-102, MCA, is amended to read:

6 "80-5-102. Labeling of agricultural seeds. The owner,
 7 vendor, or person in possession of any ANY package, parcel,
 8 or lot of agricultural seeds, as defined in 80-5-101, that
 9 contains 1 pound or more of agricultural seeds, whether in
 10 package or in bulk, shall before offering the seeds for
 11 sale, affix in a conspicuous place on the exterior of the
 12 container a written or printed label in the English language
 13 in legible type or copy containing a statement must have
 14 affixed to it a label specifying:

15 (1) a lot number or other distinguishing mark;

16 (2) kind. The name of each kind of seed present in
 17 excess of 5% shall be shown on the label and need not be
 18 accompanied by the word "kind". When two or more kinds of
 19 seed are named on the label, the name of each kind shall be
 20 accompanied by the percentage of each. When only one kind of
 21 seed is present in excess of 5% and no variety name or type
 22 designation is shown, the percentage of that kind may be
 23 shown as "pure seed" and such percentage shall apply to seed
 24 of the kind named.

25 (3) variety, as follows:

1 (a) the following kinds of agricultural seeds shall
2 be labeled to show the variety name or the words "variety
3 not stated":

4 alfalfa	oat
5 barley	pea, field
6 bean, field	rye
7 beet, field	safflower
8 brome, smooth	sorghum
9 clover, crimson	sorghum-sudan hybrid
10 clover, red	soybean
11 clover, white	sudan grass
12 corn, field	sunflower
13 corn, pop	trefoil, birdsfoot
14 fescue, tall	wheat, common
15 flax	wheat, durum
16 millet, foxtail	

17 (b) If the name of the variety is given, the name may
18 be associated with the name of the kind with or without the
19 words "kind and variety". The percentage in this case may
20 be shown as "pure seed" and shall apply only to seed of the
21 variety named. If separate percentages for the kind and the
22 variety or hybrid are shown, the name of the kind and the
23 name of the variety or the term "hybrid" shall be clearly
24 associated with the respective percentages. When two or more
25 varieties are present in excess of 5% and are named on the

1 label, the name of each variety shall be accompanied by the
2 percentage of each.

3 (4) that the seed is hybrid, if any one kind or kind
4 and variety of seed present in excess of 5% is "hybrid"
5 seed. The percentage that is hybrid shall be at least 95% of
6 the percentage of pure seed shown unless the percentage of
7 pure seed which is hybrid seed is shown separately. If two
8 or more kinds or varieties are present in excess of 5% and
9 are named on the label, each that is hybrid shall be
10 designated as "hybrid" on the label. No one kind or variety
11 of seed may be labeled as "hybrid" if the pure seed contains
12 less than 75% hybrid seed. Any one kind or kind and variety
13 that has pure seed which is less than 95% but more than 75%
14 hybrid seed as a result of incompletely controlled
15 pollination in a cross shall be labeled to show:

16 (a) the percentage of pure seed that is hybrid seed;
17 or

18 (b) a statement such as "Contains from 75% to 95%
19 hybrid seed";

20 (5) state or country of origin, if known, of alfalfa,
21 red clover, white clover, native range grasses, and field
22 corn other than hybrid. If the origin is unknown, the fact
23 shall be stated.

24 (6) the approximate percentage of germination of
25 agricultural seed, together with the date of test of

1 germination. In all cases where hard seeds remain at the end
 2 of the germination test, the percentage of actual
 3 germination and the percentage of hard seeds shall be stated
 4 separately, with the provision that any portion or all of
 5 the percentage of hard seeds may be added to the percentage
 6 of germination and stated as "total germination and hard
 7 seed".

8 (7) the approximate percentage by weight of pure seed,
 9 meaning the freedom of agricultural seeds from inert matter
 10 and from other seeds;

11 (8) the approximate percentage by weight of sand,
 12 dirt, broken seeds, sticks, chaff, and other inert matter
 13 combined in agricultural seeds;

14 (9) the approximate total percentage by weight of weed
 15 seeds;

16 (10) the approximate percentage by weight of other crop
 17 seeds in agricultural seeds;

18 (11) the name and approximate number of each kind or
 19 species of restricted noxious weed seeds occurring per pound
 20 of agricultural, vegetable, or flower seeds;

21 (12) the full name and address of the seedsman,
 22 importer, dealer or agent, or other person, firm, or
 23 corporation selling the agricultural seed;

24 (13) In the case of mixtures of agricultural seeds
 25 which contain two or more kinds of seed in excess of 5% by

1 weight of each, when sold as mixtures:

2 (a) name of mixture;

3 (b) name and approximate percentage by weight of each
 4 kind of agricultural seed present in the mixture in excess
 5 of 5% by weight of the total mixture;

6 (c) approximate percentage by weight of broken seeds
 7 and other inert matter in the mixture of agricultural seeds;

8 (d) approximate percentage by weight of weed seeds as
 9 defined in 80-5-101;

10 (e) approximate percentage by weight of other crop
 11 seeds in the mixture of agricultural seeds;

12 (f) name and approximate number of each kind or
 13 species of restricted noxious weed seeds occurring per pound
 14 of mixtures of agricultural seeds, subject, however, to
 15 restrictions as specified in 80-5-105;

16 (g) approximate percentage of germination of each kind
 17 of agricultural seed present in the mixture in excess of 5%
 18 by weight, together with the month and year the seed was
 19 tested. In all cases where hard seeds remain at the end of
 20 the germination test, the percentage of actual germination
 21 and the percentage of hard seeds shall be stated separately,
 22 with the provision that any portion or all of the hard seed
 23 may be added to the percentage of germination and stated as
 24 "total germination and hard seed".

25 (h) full name and address of the vendor of the

1 mixture."

2 Section 3. Section 80-5-104, MCA, is amended to read:

3 "80-5-104. Labeling of vegetable, and flower, seeds

4 and indigenous seeds. (1) Vegetable and flower seeds in

5 packets and in larger containers shall be labeled with the

6 required information as follows:

7 (a) each container of 1 pound or less:

8 (i) the commonly accepted name of the kind or the

9 kind and variety of the seed;

10 (ii) the name and address of the person who labeled

11 the seed or who sells the seed within this state;

12 (iii) the name and number per pound of each kind of

13 restricted noxious weed seeds as prescribed in 80-5-105;

14 (iv) in the case of seed which has a percentage of

15 germination less than the standard prescribed in the Federal

16 Seed Act:

17 (A) the percentage of germination;

18 (B) the percentage of hard seed, if more than 1%;

19 (C) the month and year the test to determine the

20 data required by this section was completed;

21 (D) the words "below standard germination" in not

22 less than 8-point boldface type;

23 (b) each container of more than 1 pound:

24 (i) the name of the kind and variety of the

25 contents;

1 (b)(iii) the lot numbers or other lot identification;

2 (iv) the name and number per pound of each kind of

3 restricted noxious weed seeds as prescribed in 80-5-105;

4 (v) the percentage of germination and whether the

5 percentage of germination meets or exceeds the standard

6 established in the Federal Seed Act;

7 (c) the percentage of hard seed, if more than 1%;

8 (d) the month and year the test to determine the

9 data required by this section was completed;

10 (e) the name and address of the person who labeled

11 the seed or who sells the seed within this state.

12 (2) Indigenous seeds, as defined in 80-5-101, in

13 amounts of 1 pound or more, whether in package or bulk, must

14 be labeled with the following information:

15 (a) the statement "Labeled only for reclamation

16 purposes";

17 (b) lot number or other distinguishing mark;

18 (c) the common name, genus, species, and subspecies

19 when applicable, including the name of each kind of seed

20 present in excess of 5%. When two or more kinds of seed are

21 named on the label, the label shall specify the percentage

22 of each. When only one kind of seed is present in excess of

23 5% and no variety name or type designation is shown, the

24 percentage must apply to seed of the kind named. If the name

25 of the variety is given, the name may be associated with the

1 name of the kind. The percentage in this case may be shown
 2 as "pure seed" and must apply only to seed of the variety
 3 named.

4 (d) state of country of origin, if known. If the
 5 origin is unknown, that fact shall be stated.

6 (e) the approximate percentage of viable seed,
 7 together with the date of test. When labeling mixtures, the
 8 percentage viability of each kind shall be stated.

9 (f) the approximate percentage by weight of pure seed,
 10 meaning the freedom of seed from inert matter and from other
 11 seeds:

12 (g) the approximate percentage by weight of seeds
 13 dirty, broken, seeds, sticks, chaff, and other inert matter;

14 (h) the approximate total percentage by weight of
 15 other seeds;

16 (i) the name and approximate number of each kind of
 17 species of restricted noxious weed seeds occurring per pound
 18 of seed;

19 (j) the full name and address of the person, firm, or
 20 corporation selling the seed."

21 Section 4. Section 80-5-107, MCA, is amended to read:

22 "80-5-107. Exemptions. Agricultural seeds or mixtures
 23 of same shall be exempt from the provisions of this part:

24 (1) when possessed, exposed for sale, or sold for food
 25 purposes only;

1 (2) when sold to merchants or dealers to be reseeded
 2 conditioned before being sold or offered for sale for
 3 seeding purposes;

4 (3) when in store for the purpose of reseeded
 5 conditioning or not possessed, sold, or offered for sale for
 6 seeding purposes within the state."

7 Section 5. Section 80-5-112, MCA, is amended to read:

8 "80-5-112. Enforcement -- rules. The department shall
 9 administer and enforce 80-5-101 through 80-5-113. For that
 10 purpose, the department may adopt rules. The department may
 11 issue and enforce a written or printed "stop sale" order to
 12 the owner or custodian of any lot of agricultural seed which
 13 the department finds in violation of 80-5-101 through
 14 80-5-113. The order shall prohibit further sale of the seed
 15 until the department has evidence that the law has been
 16 complied with. The seed may not be confiscated or destroyed.
 17 Upon proper correction, by reprocessing, reconditioning,
 18 labeling, or otherwise, and when, in the judgment of the
 19 department, the requirements of 80-5-101 through 80-5-113
 20 have been met, the stop sale order shall be lifted and the
 21 seed may be sold. The department shall adopt all necessary
 22 rules relating to the agricultural experiment station's
 23 duties under 80-5-101 through 80-5-113."

24 Section 6. Section 80-5-201, MCA, is amended to read:

25 "80-5-201. Definitions. When used in this part, the

1 following definitions apply:

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

6 (2) "Bin-run seed sales from one farmer to another
7 farmer" means buyer beware.

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

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

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

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

24 (7) "Seed buyer" means any person engaged in the
25 business of buying agricultural seed for shipment, cleaning,

1 processing, or resale and who does not own, control, or
2 operate a public agricultural seed warehouse. Any
3 individual employed by a seed buyer is not included in this
4 term.

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

8 (9) "Seed labeler" means any person affixing labels to
9 agricultural seeds with his name and address listed as
10 required in 80-5-102 when such seed is distributed in
11 Montana.

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

15 (11) "Seed warehouseman" means any person owning,
16 controlling, or operating a public agricultural seed
17 warehouse."

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

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

1 required to be licensed under this section ~~part~~. Bin-run
2 seed sales from one farmer to another are exempt from this
3 part.

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

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

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

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

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

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

13 Section 6. Section 80-5-203, MCA, is amended to read:
14 "80-5-203. Dealer's license -- exception -- fee --
15 application -- violation. (1) No person may distribute seed
16 without obtaining a dealer's license from the department for
17 each place of business. No license is required of a person
18 who distributes seeds only in sealed packages of less than
19 10 pounds, packed by a licensed seed labeler and bearing his
20 name and address. Each dealer's license shall cost no more
21 than \$20 a year and expires on June 30 of each year. The
22 department may by rule establish license fees which bear a
23 reasonable relationship to the cost of administering this
24 part. ~~Any--licensed--processing--plant--seed-labeler--seed~~
25 ~~buyer--or--public--agricultural--seed--warehouse--may--obtain--a~~

1 ~~dealer's license without additional fees~~

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

7 (3) Violation of provisions of this section or the
8 distribution of agricultural seeds not legally labeled
9 constitutes adequate grounds for canceling a license or
10 denying a license to a dealer."

11 Section 9. Section 80-5-204, MCA, is amended to read:

12 "80-5-204. Screenings -- restrictions on movements.
13 All screenings whether from seed processing conditioning
14 plants or other sources represent both a valuable and
15 potentially hazardous product. Their movements are
16 restricted as follows:

17 (1) The viability of prohibited noxious weed seed as
18 defined in 80-5-101~~(4)~~~~(b)~~ shall be destroyed before
19 screenings are utilized in feed or in any other way in which
20 they may propagate their kind. However, if these screenings
21 are sold for feed, it shall be the responsibility of the
22 feed buyer to haul under a tarp cover or other tight
23 container until the provisions of this part are met.

24 (2) The department has authority to issue rules to
25 restrict or exempt from restriction the holding and movement

1 of screenings when the public interest is served by so
2 doing."

3 NEW SECTION. Section 10. Effective date. This act is
4 effective on passage and approval.

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

SENATE BILL NO. 415

INTRODUCED BY

Conover
Stations
Boyle

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY CERTAIN SECTIONS RELATING TO AGRICULTURAL SEED; AMENDING SECTIONS 80-5-101, 80-5-102, 80-5-104, 80-5-107, 80-5-112, AND 80-5-201 THROUGH 80-5-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 80-5-101, MCA, is amended to read:

"80-5-101. Definitions. Terms used in this part and not otherwise identified are hereby defined:

(1) Agricultural seeds ~~shall~~ be ~~are~~ the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seeds and ~~shall~~ include lawn seeds and mixtures of seeds.

(2) Vegetable seeds ~~shall~~ include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

(3) Flower seeds ~~shall~~ include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and are commonly known and sold under the

name of flower seeds in this state.

(4) ~~Indigenous seeds include the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These species include grasses, forbs, shrubs, and legumes.~~

(4)(5) (a) The term "weed seeds" ~~shall~~ include includes the seeds or bulblets of all plants generally recognized as weeds within this state and ~~shall~~ include includes noxious weed seeds.

(b) Noxious weed seeds are divided into two groups defined as follows:

(i) "Prohibited noxious weed seeds" are the seeds of perennial and other serious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice. Prohibited noxious weed seeds ~~shall~~ include the seeds of:

- Canada thistle (Cirsium arvense)
- leafy spurge (Euphorbia esula)
- hoary cress (Cardaria draba)
- quackgrass (Agropyron repens)
- Russian knapweed (Centaurea repens)
- perennial sowthistle (Sonchus arvensis)
- field bindweed (Convolvulus arvensis)

1	dalmatian toadflax	(<i>Linaria dalmatica</i>)
2	halogeton	(<i>Halogeton glomeratus</i>)
3	medusa-head wildrye	(<i>Elymus caput-medusae</i>)
4	creeping bellflower	(<i>Campanula rapunculoides</i>)
5	yellow toadflax	(<i>Linaria vulgaris</i>)

6 (ii) "Restricted noxious weed seeds" are the seeds of
7 weeds that are very objectionable in fields, lawns, and
8 gardens of this state but can be controlled by good cultural
9 practices. Restricted noxious weed seeds ~~shall~~ include the
10 seeds of:

11	dodder	(<i>Cuscuta</i> spp.)
12	blue lettuce	(<i>Lactuca pulchella</i>)
13	St.-Johnswort	(<i>Hypericum perforatum</i>)
14	oxeye daisy	(<i>Chrysanthemum leucanthemum</i>)
15	spotted knapweed	(<i>Centaurea maculosa</i>)
16	hoary alyssum	(<i>Berteroa incana</i>)
17	wild oats	(<i>Avena fatua</i>)
18	buckhorn plantain	(<i>Plantago lanceolata</i>)
19	chickweed	(<i>Stellaria</i> spp.)
20	curly dock	(<i>Rumex crispus</i>)

21 ~~(5)~~ The term "hybrid" applied to kinds of varieties
22 of seed means the first generation seed of a cross produced
23 by controlling the pollination and by combining:

24 (a) two or more inbred lines;

25 (b) one inbred or a single cross with an open

1 pollinated variety; or

2 (c) two or more selected clones, seed lines,
3 varieties, or species.

4 ~~(6)~~ "Controlling the pollination" means to use a
5 method hybridization which will produce pure seed which is
6 at least 75% hybrid seed. Hybrid designations shall be
7 treated as variety names.

8 ~~(7)~~ The terms "approximate percentage" and
9 "approximate number" ~~shall~~ mean the percentage or number
10 with the variations above or below as allowed according to
11 the tolerance limits defined in the "rules for seed testing"
12 adopted by the association of official seed analysts.

13 ~~(8)~~ The term "percentage of germination" ~~shall mean~~
14 means the percentage of seeds which show normal sprouts as
15 evidence of vitality when the seeds are subjected to the
16 proper moisture and temperature conditions with proper
17 aeration for the customary length of time for each specific
18 kind of seed, as specified in the "rules for seed testing"
19 adopted by the association of official seed analysts.

20 ~~(10) The term "percentage viability" refers to the~~
21 ~~percentage of live seed capable of producing a normal~~
22 ~~seedling under optimum growing conditions, after all forms~~
23 ~~of dormancy have been overcome, if present.~~

24 ~~(9)~~ The term "name of state in which the seed was
25 grown" ~~shall mean~~ means any of the several states of the

1 United States or the foreign country.

2 ~~(12) The term "labeling" means to affix, before~~
 3 ~~offering the seed for sale, in a conspicuous place on the~~
 4 ~~exterior of the container, a written or printed label, in the~~
 5 ~~English language, giving the required information.~~

6 ~~(13) The term "other crop seeds" shall mean~~ means
 7 any agricultural, vegetable, or flower seeds other than the
 8 seed or the mixture of seeds under consideration.

9 ~~(14) The term "sell" shall include~~ includes "offer
 10 for sale", "expose for sale", "have in possession for sale",
 11 "exchange", "barter", or "trade". It shall also include
 12 includes agricultural seeds which that are furnished to
 13 growers for the production of a crop on contract.

14 ~~(15) The term "certifying agency" means:~~

15 (a) an agency authorized under the laws of a state,
 16 territory, or possession to officially certify seed and
 17 which has standards and procedures to assure the genetic
 18 purity and identity of the seed certified; or

19 (b) an agency of a foreign country determined by the
 20 department to adhere to procedures and standards for seed
 21 certification comparable to those adhered to generally by
 22 seed certifying agencies under subsection ~~(15)(a)~~ of
 23 this section.

24 ~~(16) The term "protected variety" means a variety~~
 25 for which a certificate has been issued by the U.S. plant

1 variety protection office or for which an application for
 2 protection has been filed granting the owner or his
 3 authorized agent exclusive rights in the sale and
 4 distribution of the variety."

5 Section 2. Section 80-5-102, MCA, is amended to read:

6 "80-5-102. Labeling of agricultural seeds. ~~The owner~~
 7 ~~vendor or person in possession of any~~ ANY package, parcel,
 8 or lot of agricultural seeds, as defined in 80-5-101, that
 9 contains 1 pound or more of agricultural seeds, whether in
 10 package or in bulk, shall ~~before offering the seeds for~~
 11 ~~sale affix in a conspicuous place on the exterior of the~~
 12 ~~container a written or printed label in the English language~~
 13 ~~in legible type or copy containing a statement must have~~
 14 ~~affixed to it a label~~ specifying:

15 (1) a lot number or other distinguishing mark;

16 (2) kind. The name of each kind of seed present in
 17 excess of 5% shall be shown on the label and need not be
 18 accompanied by the word "kind". When two or more kinds of
 19 seed are named on the label, the name of each kind shall be
 20 accompanied by the percentage of each. When only one kind of
 21 seed is present in excess of 5% and no variety name or type
 22 designation is shown, the percentage of that kind may be
 23 shown as "pure seed" and such percentage shall apply to seed
 24 of the kind named.

25 (3) variety, as follows:

1 (a) the following kinds of agricultural seeds shall
2 be labeled to show the variety name or the words "variety
3 not stated":

4 alfalfa	oat
5 barley	pea, field
6 bean, field	rye
7 beet, field	safflower
8 brome, smooth	sorghum
9 clover, crimson	sorghum-sudan hybrid
10 clover, red	soybean
11 clover, white	sudan grass
12 corn, field	sunflower
13 corn, pop	trefoil, birdsfoot
14 fescue, tall	wheat, common
15 flax	wheat, durum
16 millet, foxtail	

17 (b) if the name of the variety is given, the name may
18 be associated with the name of the kind with or without the
19 words "kind and variety". The percentage in this case may
20 be shown as "pure seed" and shall apply only to seed of the
21 variety named. If separate percentages for the kind and the
22 variety or hybrid are shown, the name of the kind and the
23 name of the variety or the term "hybrid" shall be clearly
24 associated with the respective percentages. When two or more
25 varieties are present in excess of 5% and are named on the

1 label, the name of each variety shall be accompanied by the
2 percentage of each.

3 (4) that the seed is hybrid, if any one kind or kind
4 and variety of seed present in excess of 5% is "hybrid"
5 seed. The percentage that is hybrid shall be at least 95% of
6 the percentage of pure seed shown unless the percentage of
7 pure seed which is hybrid seed is shown separately. If two
8 or more kinds or varieties are present in excess of 5% and
9 are named on the label, each that is hybrid shall be
10 designated as "hybrid" on the label. No one kind or variety
11 of seed may be labeled as "hybrid" if the pure seed contains
12 less than 75% hybrid seed. Any one kind or kind and variety
13 that has pure seed which is less than 95% but more than 75%
14 hybrid seed as a result of incompletely controlled
15 pollination in a cross shall be labeled to show:

16 (a) the percentage of pure seed that is hybrid seed;
17 or

18 (b) a statement such as "Contains from 75% to 95%
19 hybrid seed";

20 (5) state or country of origin, if known, of alfalfa,
21 red clover, white clover, native range grasses, and field
22 corn other than hybrid. If the origin is unknown, the fact
23 shall be stated.

24 (6) the approximate percentage of germination of
25 agricultural seed, together with the date of test of

1 germination. In all cases where hard seeds remain at the end
 2 of the germination test, the percentage of actual
 3 germination and the percentage of hard seeds shall be stated
 4 separately, with the provision that any portion or all of
 5 the percentage of hard seeds may be added to the percentage
 6 of germination and stated as "total germination and hard
 7 seed".

8 (7) the approximate percentage by weight of pure seed,
 9 meaning the freedom of agricultural seeds from inert matter
 10 and from other seeds;

11 (8) the approximate percentage by weight of sand,
 12 dirt, broken seeds, sticks, chaff, and other inert matter
 13 combined in agricultural seeds;

14 (9) the approximate total percentage by weight of weed
 15 seeds;

16 (10) the approximate percentage by weight of other crop
 17 seeds in agricultural seeds;

18 (11) the name and approximate number of each kind or
 19 species of restricted noxious weed seeds occurring per pound
 20 of agricultural, vegetable, or flower seeds;

21 (12) the full name and address of the seedsman,
 22 importer, dealer or agent, or other person, firm, or
 23 corporation selling the agricultural seed;

24 (13) in the case of mixtures of agricultural seeds
 25 which contain two or more kinds of seed in excess of 5% by

1 weight of each, when sold as mixtures:

2 (a) name of mixture;

3 (b) name and approximate percentage by weight of each
 4 kind of agricultural seed present in the mixture in excess
 5 of 5% by weight of the total mixture;

6 (c) approximate percentage by weight of broken seeds
 7 and other inert matter in the mixture of agricultural seeds;

8 (d) approximate percentage by weight of weed seeds as
 9 defined in 80-5-101;

10 (e) approximate percentage by weight of other crop
 11 seeds in the mixture of agricultural seeds;

12 (f) name and approximate number of each kind or
 13 species of restricted noxious weed seeds occurring per pound
 14 of mixtures of agricultural seeds, subject, however, to
 15 restrictions as specified in 80-5-105;

16 (g) approximate percentage of germination of each kind
 17 of agricultural seed present in the mixture in excess of 5%
 18 by weight, together with the month and year the seed was
 19 tested. In all cases where hard seeds remain at the end of
 20 the germination test, the percentage of actual germination
 21 and the percentage of hard seeds shall be stated separately,
 22 with the provision that any portion or all of the hard seed
 23 may be added to the percentage of germination and stated as
 24 "total germination and hard seed".

25 (h) full name and address of the vendor of the

1 mixture."

2 Section 3. Section 80-5-104, MCA, is amended to read:

3 "80-5-104. Labeling of vegetable, and flower, seeds

4 and indigenous seeds. (1) Vegetable and flower seeds in

5 packets and in larger containers shall be labeled with the

6 required information as follows:

7 (a) each container of 1 pound or less;

8 (i) the commonly accepted name of the kind or the

9 kind and variety of the seed;

10 (ii) the name and address of the person who labeled

11 the seed or who sells the seed within this state;

12 (iii) the name and number per pound of each kind of

13 restricted noxious weed seeds as prescribed in 80-5-105;

14 (iv) in the case of seed which has a percentage of

15 germination less than the standard prescribed in the Federal

16 Seed Act:

17 (A) the percentage of germination;

18 (B) the percentage of hard seed, if more than 1%;

19 (C) the month and year the test to determine the

20 data required by this section was completed;

21 (D) the words "below standard germination" in not

22 less than 8-point boldface type;

23 (b) each container of more than 1 pound:

24 (i) the name of the kind and variety of the

25 contents;

1 (ii) the lot numbers or other lot identification;

2 (iii) the name and number per pound of each kind of

3 restricted noxious weed seeds as prescribed in 80-5-105;

4 (iv) the percentage of germination and whether the

5 percentage of germination meets or exceeds the standard

6 established in the Federal Seed Act;

7 (v) the percentage of hard seed, if more than 1%;

8 (vi) the month and year the test to determine the

9 data required by this section was completed;

10 (vii) the name and address of the person who labeled

11 the seed or who sells the seed within this state.

12 (2) Indigenous seeds, as defined in 80-5-101, in

13 amounts of 1 pound or more, whether in package or bulk, must

14 be labeled with the following information:

15 (a) the statement "Labeled only for reclamation

16 purposes";

17 (b) lot number or other distinguishing mark;

18 (c) the common name, genus, species, and subspecies

19 when applicable, including the name of each kind of seed

20 present in excess of 5%. When two or more kinds of seed are

21 named on the label, the label shall specify the percentage

22 of each. When only one kind of seed is present in excess of

23 5% and no variety name or type designation is shown, the

24 percentage must apply to seed of the kind named. If the name

25 of the variety is given, the name may be associated with the

1 name of the kind. The percentage in this case may be shown
2 as "pure seed" and must apply only to seed of the variety
3 named.

4 (d) state of country of origin, if known. If the
5 origin is unknown, that fact shall be stated.

6 (e) the approximate percentage of viable seed,
7 together with the date of test. When labeling mixtures, the
8 percentage viability of each kind shall be stated.

9 (f) the approximate percentage by weight of pure seed,
10 meaning the freedom of seed from inert matter and from other
11 seeds;

12 (g) the approximate percentage by weight of sand,
13 dirt, broken seeds, sticks, chaff, and other inert matter;

14 (h) the approximate total percentage by weight of
15 other seeds;

16 (i) the name and approximate number of each kind of
17 species of restricted noxious weed seeds occurring per pound
18 of seed;

19 (j) the full name and address of the person, firm, or
20 corporation selling the seed."

21 Section 4. Section 80-5-107, MCA, is amended to read:

22 "80-5-107. Exemptions. Agricultural seeds or mixtures
23 of same shall be exempt from the provisions of this part:

24 (1) when possessed, exposed for sale, or sold for food
25 purposes only;

1 (2) when sold to merchants or dealers to be reseeded
2 conditioned before being sold or offered for sale for
3 seeding purposes;

4 (3) when in store for the purpose of reseeding
5 conditioning or not possessed, sold, or offered for sale for
6 seeding purposes within the state."

7 Section 5. Section 80-5-112, MCA, is amended to read:

8 "80-5-112. Enforcement -- rules. The department shall
9 administer and enforce 80-5-101 through 80-5-113. For that
10 purpose, the department may adopt rules. The department may
11 issue and enforce a written or printed "stop sale" order to
12 the owner or custodian of any lot of agricultural seed which
13 the department finds in violation of 80-5-101 through
14 80-5-113. The order shall prohibit further sale of the seed
15 until the department has evidence that the law has been
16 complied with. The seed may not be confiscated or destroyed.
17 Upon proper correction, by reprocessing, reconditioning,
18 labeling, or otherwise, and when, in the judgment of the
19 department, the requirements of 80-5-101 through 80-5-113
20 have been met, the stop sale order shall be lifted and the
21 seed may be sold. The department shall adopt all necessary
22 rules relating to the agricultural experiment station's
23 duties under 80-5-101 through 80-5-113."

24 Section 6. Section 80-5-201, MCA, is amended to read:

25 "80-5-201. Definitions. When used in this part, the

1 following definitions apply:

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

6 (2) "Bin-run seed sales from one farmer to another
7 farmer" means buyer beware.

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

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

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

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

24 (7) "Seed buyer" means any person engaged in the
25 business of buying agricultural seed for shipment, cleaning,

1 processing, or resale and who does not own, control, or
2 operate a public agricultural seed warehouse. Any
3 individual employed by a seed buyer is not included in this
4 term.

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

8 (9) "Seed labeler" means any person affixing labels to
9 agricultural seeds with his name and address listed as
10 required in 80-5-102 when such seed is distributed in
11 Montana.

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

15 (11) "Seed warehouseman" means any person owning,
16 controlling, or operating a public agricultural seed
17 warehouse."

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

1 required to be licensed under this section part. Bin-run
2 seed sales from one farmer to another are exempt from this
3 part.

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

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

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

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

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

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

13 Section 8. Section 80-5-203, MCA, is amended to read:
14 "80-5-203. Dealer's license -- exception -- fee --
15 application -- violation. (1) No person may distribute seed
16 without obtaining a dealer's license from the department for
17 each place of business. No license is required of a person
18 who distributes seeds only in sealed packages of less than
19 10 pounds, packed by a licensed seed labeler and bearing his
20 name and address. Each dealer's license shall cost no more
21 than \$20 a year and expires on June 30 of each year. The
22 department may by rule establish license fees which bear a
23 reasonable relationship to the cost of administering this
24 part. ~~Any--licensed--processing--plant--seed--labeler--seed~~
25 ~~buyer--or--public--agricultural--seed--warehouse--may--obtain--a~~

~~dealer's license without additional fee~~

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

(3) Violation of provisions of this section or the distribution of agricultural seeds not legally labeled constitutes adequate grounds for canceling a license or denying a license to a dealer."

Section 9. Section 80-5-204, MCA, is amended to read:

"80-5-204. Screenings -- restrictions on movements. All screenings whether from seed processing conditioning plants or other sources represent both a valuable and potentially hazardous product. Their movements are restricted as follows:

(1) The viability of prohibited noxious weed seed as defined in 80-5-101~~(4)(b)~~ shall be destroyed before screenings are utilized in feed or in any other way in which they may propagate their kind. However, if these screenings are sold for feed, it shall be the responsibility of the feed buyer to haul under a tarp cover or other tight container until the provisions of this part are met.

(2) The department has authority to issue rules to restrict or exempt from restriction the holding and movement

of screenings when the public interest is served by so doing."

~~NEW SECTION.~~ Section 10. Effective date. This act is effective on passage and approval.

-End-

BILL NO. 415

INTRODUCED BY

Senators
Conover Stephens Bayle

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY CERTAIN SECTIONS RELATING TO AGRICULTURAL SEED; AMENDING SECTIONS 80-5-101, 80-5-102, 80-5-104, 80-5-107, 80-5-112, AND 80-5-201 THROUGH 80-5-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 80-5-101, MCA, is amended to read:

"80-5-101. Definitions. Terms used in this part and not otherwise identified are hereby defined:

(1) Agricultural seeds ~~shall be~~ ~~are~~ the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seeds and ~~shall~~ include lawn seeds and mixtures of seeds.

(2) Vegetable seeds ~~shall~~ include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

(3) Flower seeds ~~shall~~ include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and are commonly known and sold under the

name of flower seeds in this state.

~~(4) Indigenous seeds include the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These species include grasses, forbs, shrubs, and legumes.~~

~~(4)(5) (a) The term "weed seeds" shall include~~ includes the seeds or bulblets of all plants generally recognized as weeds within this state and ~~shall include~~ includes noxious weed seeds.

(b) Noxious weed seeds are divided into two groups defined as follows:

(i) "Prohibited noxious weed seeds" are the seeds of perennial and other serious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice. Prohibited noxious weed seeds ~~shall~~ include the seeds of:

- Canada thistle (Cirsium arvense)
- leafy spurge (Euphorbia esula)
- hoary cress (Cardaria draba)
- quackgrass (Agropyron repens)
- Russian knapweed (Centaurea repens)
- perennial sowthistle (Sonchus arvensis)
- field bindweed (Convolvulus arvensis)

1	dalmatian toadflax	(Linaria dalmatica)
2	halogeton	(Halogeton glomeratus)
3	medusa-head wildrye	(Elymus caput-medusae)
4	creeping bellflower	(Campanula rapunculoides)
5	yellow toadflax	(Linaria vulgaris)

6 (ii) "Restricted noxious weed seeds" are the seeds of
7 weeds that are very objectionable in fields, lawns, and
8 gardens of this state but can be controlled by good cultural
9 practices. Restricted noxious weed seeds ~~shall~~ include the
10 seeds of:

11	odder	(Cuscuta spp.)
12	blue lettuce	(Lactuca pulchella)
13	St.-Johnswort	(Hypericum perforatum)
14	oxeye daisy	(Chrysanthemum leucanthemum)
15	spotted knapweed	(Centaurea maculosa)
16	hoary alyssum	(Berteroa incana)
17	wild oats	(Avena fatua)
18	buckhorn plantain	(Plantago lanceolata)
19	chickweed	(Stellaria spp.)
20	curly dock	(Rumex crispus)

21 ~~f5~~f6 The term "hybrid" applied to kinds of varieties
22 of seed means the first generation seed of a cross produced
23 by controlling the pollination and by combining:

24 (a) two or more inbred lines;

25 (b) one inbred or a single cross with an open

1 pollinated variety; or

2 (c) two or more selected clones, seed lines,
3 varieties, or species.

4 ~~f6~~f7 "Controlling the pollination" means to use a
5 method hybridization which will produce pure seed which is
6 at least 75% hybrid seed. Hybrid designations shall be
7 treated as variety names.

8 ~~f7~~f8 The terms "approximate percentage" and
9 "approximate number" ~~shall~~ mean the percentage or number
10 with the variations above or below as allowed according to
11 the tolerance limits defined in the "rules for seed testing"
12 adopted by the association of official seed analysts.

13 ~~f8~~f9 The term "percentage of germination" ~~shall~~ ~~mean~~
14 means the percentage of seeds which show normal sprouts as
15 evidence of vitality when the seeds are subjected to the
16 proper moisture and temperature conditions with proper
17 aeration for the customary length of time for each specific
18 kind of seed, as specified in the "rules for seed testing"
19 adopted by the association of official seed analysts.

20 ~~f9~~f10 The term "percentage viability" refers to the
21 percentage of live seed capable of producing a normal
22 seedling under optimum growing conditions, after all forms
23 of dormancy have been overcome, if present.

24 ~~f9~~f11 The term "name of state in which the seed was
25 grown" ~~shall~~ ~~mean~~ means any of the several states of the

1 United States or the foreign country.

2 ~~(12) The term "labeling" means to affix, before~~
 3 ~~offering the seed for sale, in a conspicuous place on the~~
 4 ~~exterior of the container a written or printed label, in the~~
 5 ~~English language, giving the required information.~~

6 ~~(13) The term "other crop seeds" shall mean~~ means
 7 any agricultural, vegetable, or flower seeds other than the
 8 seed or the mixture of seeds under consideration.

9 ~~(14) The term "sell" shall include~~ includes "offer
 10 for sale", "expose for sale", "have in possession for sale",
 11 "exchange", "barter", or "trade". It shall also ~~include~~
 12 includes agricultural seeds which ~~that~~ are furnished to
 13 growers for the production of a crop on contract.

14 ~~(15) The term "certifying agency" means:~~

15 (a) an agency authorized under the laws of a state,
 16 territory, or possession to officially certify seed and
 17 which has standards and procedures to assure the genetic
 18 purity and identity of the seed certified; or

19 (b) an agency of a foreign country determined by the
 20 department to adhere to procedures and standards for seed
 21 certification comparable to those adhered to generally by
 22 seed certifying agencies under subsection ~~(15)(a)~~ of
 23 this section.

24 ~~(16) The term "protected variety" means a variety~~
 25 for which a certificate has been issued by the U.S. plant

1 variety protection office or for which an application for
 2 protection has been filed granting the owner or his
 3 authorized agent exclusive rights in the sale and
 4 distribution of the variety."

5 Section 2. Section 80-5-102, MCA, is amended to read:
 6 "80-5-102. Labeling of agricultural seeds. ~~The owner~~
 7 ~~vendor or person in possession of any~~ ANY package, parcel,
 8 or lot of agricultural seeds, as defined in 80-5-101, that
 9 contains 1 pound or more of agricultural seeds, whether in
 10 package or in bulk, ~~shall before offering the seeds for~~
 11 ~~sale affix in a conspicuous place on the exterior of the~~
 12 ~~container a written or printed label in the English language~~
 13 ~~in legible type or copy containing a statement must have~~
 14 ~~affixed to it a label~~ specifying:

15 (1) a lot number or other distinguishing mark;
 16 (2) kind. The name of each kind of seed present in
 17 excess of 5% shall be shown on the label and need not be
 18 accompanied by the word "kind". When two or more kinds of
 19 seed are named on the label, the name of each kind shall be
 20 accompanied by the percentage of each. When only one kind of
 21 seed is present in excess of 5% and no variety name or type
 22 designation is shown, the percentage of that kind may be
 23 shown as "pure seed" and such percentage shall apply to seed
 24 of the kind named.

25 (3) variety, as follows:

1 (a) the following kinds of agricultural seeds shall
2 be labeled to show the variety name or the words "variety
3 not stated":

4 alfalfa	oat
5 barley	pea, field
6 bean, field	rye
7 beet, field	safflower
8 brome, smooth	sorghum
9 clover, crimson	sorghum-sudan hybrid
10 clover, red	soybean
11 clover, white	sudan grass
12 corn, field	sunflower
13 corn, pop	trefoil, birdsfoot
14 fescue, tall	wheat, common
15 flax	wheat, durum
16 millet, foxtail	

17 (b) if the name of the variety is given, the name may
18 be associated with the name of the kind with or without the
19 words "kind and variety". The percentage in this case may
20 be shown as "pure seed" and shall apply only to seed of the
21 variety named. If separate percentages for the kind and the
22 variety or hybrid are shown, the name of the kind and the
23 name of the variety or the term "hybrid" shall be clearly
24 associated with the respective percentages. When two or more
25 varieties are present in excess of 5% and are named on the

1 label, the name of each variety shall be accompanied by the
2 percentage of each.

3 (4) that the seed is hybrid, if any one kind or kind
4 and variety of seed present in excess of 5% is "hybrid"
5 seed. The percentage that is hybrid shall be at least 95% of
6 the percentage of pure seed shown unless the percentage of
7 pure seed which is hybrid seed is shown separately. If two
8 or more kinds or varieties are present in excess of 5% and
9 are named on the label, each that is hybrid shall be
10 designated as "hybrid" on the label. No one kind or variety
11 of seed may be labeled as "hybrid" if the pure seed contains
12 less than 75% hybrid seed. Any one kind or kind and variety
13 that has pure seed which is less than 95% but more than 75%
14 hybrid seed as a result of incompletely controlled
15 pollination in a cross shall be labeled to show:

16 (a) the percentage of pure seed that is hybrid seed;
17 or

18 (b) a statement such as "Contains from 75% to 95%
19 hybrid seed";

20 (5) state or country of origin, if known, of alfalfa,
21 red clover, white clover, native range grasses, and field
22 corn other than hybrid. If the origin is unknown, the fact
23 shall be stated.

24 (6) the approximate percentage of germination of
25 agricultural seed, together with the date of test of

1 germination. In all cases where hard seeds remain at the end
 2 of the germination test, the percentage of actual
 3 germination and the percentage of hard seeds shall be stated
 4 separately, with the provision that any portion or all of
 5 the percentage of hard seeds may be added to the percentage
 6 of germination and stated as "total germination and hard
 7 seed".

8 (7) the approximate percentage by weight of pure seed,
 9 meaning the freedom of agricultural seeds from inert matter
 10 and from other seeds;

11 (8) the approximate percentage by weight of sand,
 12 dirt, broken seeds, sticks, chaff, and other inert matter
 13 combined in agricultural seeds;

14 (9) the approximate total percentage by weight of weed
 15 seeds;

16 (10) the approximate percentage by weight of other crop
 17 seeds in agricultural seeds;

18 (11) the name and approximate number of each kind or
 19 species of restricted noxious weed seeds occurring per pound
 20 of agricultural, vegetable, or flower seeds;

21 (12) the full name and address of the seedsman,
 22 importer, dealer or agent, or other person, firm, or
 23 corporation selling the agricultural seed;

24 (13) in the case of mixtures of agricultural seeds
 25 which contain two or more kinds of seed in excess of 5% by

1 weight of each, when sold as mixtures:

2 (a) name of mixture;

3 (b) name and approximate percentage by weight of each
 4 kind of agricultural seed present in the mixture in excess
 5 of 5% by weight of the total mixture;

6 (c) approximate percentage by weight of broken seeds
 7 and other inert matter in the mixture of agricultural seeds;

8 (d) approximate percentage by weight of weed seeds as
 9 defined in 80-5-101;

10 (e) approximate percentage by weight of other crop
 11 seeds in the mixture of agricultural seeds;

12 (f) name and approximate number of each kind or
 13 species of restricted noxious weed seeds occurring per pound
 14 of mixtures of agricultural seeds, subject, however, to
 15 restrictions as specified in 80-5-105;

16 (g) approximate percentage of germination of each kind
 17 of agricultural seed present in the mixture in excess of 5%
 18 by weight, together with the month and year the seed was
 19 tested. In all cases where hard seeds remain at the end of
 20 the germination test, the percentage of actual germination
 21 and the percentage of hard seeds shall be stated separately,
 22 with the provision that any portion or all of the hard seed
 23 may be added to the percentage of germination and stated as
 24 "total germination and hard seed".

25 (h) full name and address of the vendor of the

1 mixture."

2 Section 3. Section 80-5-104, MCA, is amended to read:

3 "80-5-104. Labeling of vegetable_s and flower_s seeds

4 and indigenous seeds. (1) Vegetable and flower seeds in

5 packets and in larger containers shall be labeled with the

6 required information as follows:

7 (++)(a) each container of 1 pound or less:

8 (++)(i) the commonly accepted name of the kind or the

9 kind and variety of the seed;

10 (++)(ii) the name and address of the person who labeled

11 the seed or who sells the seed within this state;

12 (++)(iii) the name and number per pound of each kind of

13 restricted noxious weed seeds as prescribed in 80-5-105;

14 (++)(iv) in the case of seed which has a percentage of

15 germination less than the standard prescribed in the Federal

16 Seed Act:

17 (++)(A) the percentage of germination;

18 (++)(B) the percentage of hard seed, if more than 1%;

19 (++)(C) the month and year the test to determine the

20 data required by this section was completed;

21 (++)(D) the words "below standard germination" in not

22 less than 8-point boldface type;

23 (++)(b) each container of more than 1 pound:

24 (++)(i) the name of the kind and variety of the

25 contents;

1 (++)(iii) the lot numbers or other lot identification;

2 (++)(iiii) the name and number per pound of each kind of

3 restricted noxious weed seeds as prescribed in 80-5-105;

4 (++)(iv) the percentage of germination and whether the

5 percentage of germination meets or exceeds the standard

6 established in the Federal Seed Act;

7 (++)(v) the percentage of hard seed, if more than 1%;

8 (++)(vi) the month and year the test to determine the

9 data required by this section was completed;

10 (++)(vii) the name and address of the person who labeled

11 the seed or who sells the seed within this state.

12 (2) Indigenous seeds, as defined in 80-5-101, in

13 amounts of 1 pound or more, whether in package or bulk, must

14 be labeled with the following information:

15 (a) the statement "labeled only for reclamation

16 purposes";

17 (b) lot number or other distinguishing mark;

18 (c) the common name, genus, species, and subspecies

19 when applicable, including the name of each kind of seed

20 present in excess of 5%. When two or more kinds of seed are

21 named on the label, the label shall specify the percentage

22 of each. When only one kind of seed is present in excess of

23 5% and no variety name or type designation is shown, the

24 percentage must apply to seed of the kind named. If the name

25 of the variety is given, the name may be associated with the

1 name of the kind. The percentage in this case may be shown
 2 as "pure seed" and must apply only to seed of the variety
 3 named.

4 (d) state or country of origin, if known. If the
 5 origin is unknown, that fact shall be stated.

6 (e) the approximate percentage of viable seeds,
 7 together with the date of test. When labeling mixtures, the
 8 percentage viability of each kind shall be stated.

9 (f) the approximate percentage by weight of pure seed,
 10 meaning the freedom of seed from inert matter and from other
 11 seeds;

12 (g) the approximate percentage by weight of sand,
 13 dirt, broken seeds, sticks, chaff, and other inert matter;

14 (h) the approximate total percentage by weight of
 15 other seeds;

16 (i) the name and approximate number of each kind of
 17 species of restricted noxious weed seeds occurring per pound
 18 of seed;

19 (j) the full name and address of the person, firm, or
 20 corporation selling the seed."

21 Section 4. Section 80-5-107, MCA, is amended to read:

22 "80-5-107. Exemptions. Agricultural seeds or mixtures
 23 of same shall be exempt from the provisions of this part:

24 (1) when possessed, exposed for sale, or sold for food
 25 purposes only;

1 (2) when sold to merchants or dealers to be re-cleaned
 2 conditioned before being sold or offered for sale for
 3 seeding purposes;

4 (3) when in store for the purpose of re-cleaning
 5 conditioning or not possessed, sold, or offered for sale for
 6 seeding purposes within the state."

7 Section 5. Section 80-5-112, MCA, is amended to read:

8 "80-5-112. Enforcement -- rules. The department shall
 9 administer and enforce 80-5-101 through 80-5-113. For that
 10 purpose, the department may adopt rules. The department may
 11 issue and enforce a written or printed "stop sale" order to
 12 the owner or custodian of any lot of agricultural seed which
 13 the department finds in violation of 80-5-101 through
 14 80-5-113. The order shall prohibit further sale of the seed
 15 until the department has evidence that the law has been
 16 complied with. The seed may not be confiscated or destroyed.
 17 Upon proper correction, by reprocessing reconditioning,
 18 labeling, or otherwise, and when, in the judgment of the
 19 department, the requirements of 80-5-101 through 80-5-113
 20 have been met, the stop sale order shall be lifted and the
 21 seed may be sold. The department shall adopt all necessary
 22 rules relating to the agricultural experiment station's
 23 duties under 80-5-101 through 80-5-113."

24 Section 6. Section 80-5-201, MCA, is amended to read:

25 "80-5-201. Definitions. When used in this part, the

1 following definitions apply:

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

6 (2) "Bin-run seed sales from one farmer to another
7 farmer" means buyer beware.

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

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

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

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

24 (7) "Seed buyer" means any person engaged in the
25 business of buying agricultural seed for shipment, cleaning,

1 processing, or resale and who does not own, control, or
2 operate a public agricultural seed warehouse. Any
3 individual employed by a seed buyer is not included in this
4 term.

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

8 (9) "Seed labeler" means any person affixing labels to
9 agricultural seeds with his name and address listed as
10 required in 80-5-102 when such seed is distributed in
11 Montana.

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

15 (11) "Seed warehouseman" means any person owning,
16 controlling, or operating a public agricultural seed
17 warehouse."

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

1 required to be licensed under this section part. Bin-run
2 seed sales from one farmer to another are exempt from this
3 part.

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

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

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

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

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

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

13 Section 8. Section 80-5-203, MCA, is amended to read:
14 "80-5-203. Dealer's license -- exception -- fee --
15 application -- violation. (1) No person may distribute seed
16 without obtaining a dealer's license from the department for
17 each place of business. No license is required of a person
18 who distributes seeds only in sealed packages of less than
19 10 pounds, packed by a licensed seed labeler and bearing his
20 name and address. Each dealer's license shall cost no more
21 than \$20 a year and expires on June 30 of each year. The
22 department may by rule establish license fees which bear a
23 reasonable relationship to the cost of administering this
24 part. Any--licensed--processing--plant--seed--labeler--seed
25 buyer--or--public--agricultural--seed--warehouse--may--obtain--a

1 ~~dealer's license without additional fee.~~

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

7 (3) Violation of provisions of this section or the
8 distribution of agricultural seeds not legally labeled
9 constitutes adequate grounds for canceling a license or
10 denying a license to a dealer.*

11 Section 9. Section 80-5-204, MCA, is amended to read:

12 "80-5-204. Screenings -- restrictions on movements.
13 All screenings whether from seed processing ~~conditioning~~
14 plants or other sources represent both a valuable and
15 potentially hazardous product. Their movements are
16 restricted as follows:

17 (1) The viability of prohibited noxious weed seed as
18 defined in 80-5-101(4)(b) shall be destroyed before
19 screenings are utilized in feed or in any other way in which
20 they may propagate their kind. However, if these screenings
21 are sold for feed, it shall be the responsibility of the
22 feed buyer to haul under a tarp cover or other tight
23 container until the provisions of this part are met.

24 (2) The department has authority to issue rules to
25 restrict or exempt from restriction the holding and movement

1 of screenings when the public interest is served by so
2 doing.*

3 NEW SECTION. Section 10. Effective date. This act is
4 effective on passage and approval.

-End-

House Agriculture Committee amendments to
Senate Bill 415, third reading copy
March 16, 1983

1. Page 6, line 7.

Following: "Any"

Insert: "person offering for sale a"

AND AS AMENDED
BE CONCURRED IN

1 SENATE BILL NO. 415

2 INTRODUCED BY CONOVER, GRAHAM, BOYLAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
5 CERTAIN SECTIONS RELATING TO AGRICULTURAL SEED; AMENDING
6 SECTIONS 80-5-101, 80-5-102, 80-5-104, 80-5-107, 80-5-112,
7 AND 80-5-201 THROUGH 80-5-204, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

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

11 Section 1. Section 80-5-101, MCA, is amended to read:

12 "80-5-101. Definitions. Terms used in this part and
13 not otherwise identified are hereby defined:14 (1) Agricultural seeds ~~shall be~~ are the seeds of
15 grass, forage, cereal, and fiber crops and any other kinds
16 of seeds commonly recognized within this state as
17 agricultural seeds and ~~shall~~ include lawn seeds and mixtures
18 of seeds.19 (2) Vegetable seeds ~~shall~~ include the seeds of those
20 crops that are or may be grown in gardens or on truck farms
21 and are or may be sold generally under the name of vegetable
22 seeds.23 (3) Flower seeds ~~shall~~ include seeds of herbaceous
24 plants grown for their blooms, ornamental foliage, or other
25 ornamental parts and are commonly known and sold under the

1 name of flower seeds in this state.

2 ~~(4) Indigenous seeds include the seeds of those plants~~
3 ~~that are naturally adapted to an area where the intended use~~
4 ~~is for revegetation of disturbed sites. These species~~
5 ~~include grasses, forbs, shrubs, and legumes.~~6 ~~(4)(5)~~ (a) The term "weed seeds" ~~shall include~~
7 ~~includes~~ the seeds or bulblets of all plants generally
8 recognized as weeds within this state and ~~shall include~~
9 ~~includes~~ noxious weed seeds.10 (b) Noxious weed seeds are divided into two groups
11 defined as follows:12 (i) "Prohibited noxious weed seeds" are the seeds of
13 perennial and other serious weeds that not only reproduce by
14 seed but also may spread by underground roots, stems, and
15 other reproductive parts and which, when well established,
16 are highly destructive and difficult to control in this
17 state by ordinary good cultural practice. Prohibited noxious
18 weed seeds ~~shall~~ include the seeds of:

19 Canada thistle	(Cirsium arvense)
20 leafy spurge	(Euphorbia esula)
21 hoary cress	(Cardaria draba)
22 quackgrass	(Agropyron repens)
23 Russian knapweed	(Centaurea repens)
24 perennial sowthistle	(Sonchus arvensis)
25 field bindweed	(Convolvulus arvensis)

1 dalmatian toadflax (Linaria dalmatica)
 2 halogeton (Halogeton glomeratus)
 3 medusa-head wildrye (Elymus caput-medusae)
 4 creeping bellflower (Campanula rapunculoides)
 5 yellow toadflax (Linaria vulgaris)

6 (ii) "Restricted noxious weed seeds" are the seeds of
 7 weeds that are very objectionable in fields, lawns, and
 8 gardens of this state but can be controlled by good cultural
 9 practices. Restricted noxious weed seeds ~~shall~~ include the
 10 seeds of:

11 dodder (Cuscuta spp.)
 12 blue lettuce (Lactuca pulchella)
 13 St.-Johnswort (Hypericum perforatum)
 14 oxeye daisy (Chrysanthemum leucanthemum)
 15 spotted knapweed (Centaurea maculosa)
 16 hoary alyssum (Berteroa incana)
 17 wild oats (Avena fatua)
 18 buckhorn plantain (Plantago lanceolata)
 19 chickweed (Stellaria spp.)
 20 curly dock (Rumex crispus)

21 ~~(5)(6)~~ The term "hybrid" applied to kinds of varieties
 22 of seed means the first generation seed of a cross produced
 23 by controlling the pollination and by combining:

24 (a) two or more inbred lines;
 25 (b) one inbred or a single cross with an open

1 pollinated variety; or
 2 (c) two or more selected clones, seed lines,
 3 varieties, or species.

4 ~~(6)(7)~~ "Controlling the pollination" means to use a
 5 method hybridization which will produce pure seed which is
 6 at least 75% hybrid seed. Hybrid designations shall be
 7 treated as variety names.

8 ~~(7)(8)~~ The terms "approximate percentage" and
 9 "approximate number" ~~shall~~ mean the percentage or number
 10 with the variations above or below as allowed according to
 11 the tolerance limits defined in the "rules for seed testing"
 12 adopted by the association of official seed analysts.

13 ~~(8)(9)~~ The term "percentage of germination" ~~shall mean~~
 14 means the percentage of seeds which show normal sprouts as
 15 evidence of vitality when the seeds are subjected to the
 16 proper moisture and temperature conditions with proper
 17 aeration for the customary length of time for each specific
 18 kind of seed, as specified in the "rules for seed testing"
 19 adopted by the association of official seed analysts.

20 ~~(10) The term "percentage viability" refers to the~~
 21 ~~percentage of live seed capable of producing a normal~~
 22 ~~seedling under optimum growing conditions, after all forces~~
 23 ~~of dormancy have been overcome, if present.~~

24 ~~(9)(11)~~ The term "name of state in which the seed was
 25 grown" ~~shall mean~~ means any of the several states of the

1 United States or the foreign country.

2 ~~(12) The term "labeling" means to affix, before~~
 3 ~~offering the seed for sale, in a conspicuous place on the~~
 4 ~~exterior of the container a written or printed label, in the~~
 5 ~~English language, giving the required information.~~

6 ~~(10)(13) The term "other crop seeds" shall mean means~~
 7 any agricultural, vegetable, or flower seeds other than the
 8 seed or the mixture of seeds under consideration.

9 ~~(11)(14) The term "sell" shall include includes~~ "offer
 10 for sale", "expose for sale", "have in possession for sale",
 11 "exchange", "barter", or "trade". It shall also include
 12 includes agricultural seeds which that are furnished to
 13 growers for the production of a crop on contract.

14 ~~(12)(15) The term "certifying agency" means:~~

15 (a) an agency authorized under the laws of a state,
 16 territory, or possession to officially certify seed and
 17 which has standards and procedures to assure the genetic
 18 purity and identity of the seed certified; or

19 (b) an agency of a foreign country determined by the
 20 department to adhere to procedures and standards for seed
 21 certification comparable to those adhered to generally by
 22 seed certifying agencies under subsection ~~(12)(15)(a)~~ of
 23 this section.

24 ~~(13)(16) The term "protected variety" means a variety~~
 25 for which a certificate has been issued by the U.S. plant

1 variety protection office or for which an application for
 2 protection has been filed granting the owner or his
 3 authorized agent exclusive rights in the sale and
 4 distribution of the variety."

5 Section 2. Section 80-5-102, MCA, is amended to read:

6 "80-5-102. Labeling of agricultural seeds. ~~The owner~~
 7 ~~vendor or person in possession of any~~ **Any PERSON OFFERING**
 8 **EOR SALE** A package, parcel, or lot of agricultural seeds, as
 9 defined in 80-5-101, that contains 1 pound or more of
 10 agricultural seeds, whether in package or in bulk, shall
 11 ~~before offering the seeds for sale, affix in a conspicuous~~
 12 ~~place on the exterior of the container a written or printed~~
 13 ~~label in the English language in legible type or copy~~
 14 ~~containing a statement~~ must have affixed to it a label
 15 specifying:

16 (1) a lot number or other distinguishing mark;

17 (2) kind. The name of each kind of seed present in
 18 excess of 5% shall be shown on the label and need not be
 19 accompanied by the word "kind". When two or more kinds of
 20 seed are named on the label, the name of each kind shall be
 21 accompanied by the percentage of each. When only one kind of
 22 seed is present in excess of 5% and no variety name or type
 23 designation is shown, the percentage of that kind may be
 24 shown as "pure seed" and such percentage shall apply to seed
 25 of the kind named.

1 (3) variety, as follows:

2 (a) the following kinds of agricultural seeds shall
3 be labeled to show the variety name or the words "variety
4 not stated":

5 alfalfa	oat
6 barley	pea, field
7 bean, field	rye
8 beet, field	safflower
9 brome, smooth	sorghum
10 clover, crimson	sorghum-sudan hybrid
11 clover, red	soybean
12 clover, white	sudan grass
13 corn, field	sunflower
14 corn, pop	trefoil, birdsfoot
15 fescue, tall	wheat, common
16 flax	wheat, durum
17 millet, foxtail	

18 (b) If the name of the variety is given, the name may
19 be associated with the name of the kind with or without the
20 words "kind and variety". The percentage in this case may
21 be shown as "pure seed" and shall apply only to seed of the
22 variety named. If separate percentages for the kind and the
23 variety or hybrid are shown, the name of the kind and the
24 name of the variety or the term "hybrid" shall be clearly
25 associated with the respective percentages. When two or more

1 varieties are present in excess of 5% and are named on the
2 label, the name of each variety shall be accompanied by the
3 percentage of each.

4 (4) that the seed is hybrid, if any one kind or kind
5 and variety of seed present in excess of 5% is "hybrid"
6 seed. The percentage that is hybrid shall be at least 95% of
7 the percentage of pure seed shown unless the percentage of
8 pure seed which is hybrid seed is shown separately. If two
9 or more kinds or varieties are present in excess of 5% and
10 are named on the label, each that is hybrid shall be
11 designated as "hybrid" on the label. No one kind or variety
12 of seed may be labeled as "hybrid" if the pure seed contains
13 less than 75% hybrid seed. Any one kind or kind and variety
14 that has pure seed which is less than 95% but more than 75%
15 hybrid seed as a result of incompletely controlled
16 pollination in a cross shall be labeled to show:

17 (a) the percentage of pure seed that is hybrid seed;
18 or

19 (b) a statement such as "Contains from 75% to 95%
20 hybrid seed";

21 (5) state or country of origin, if known, of alfalfa,
22 red clover, white clover, native range grasses, and field
23 corn other than hybrid. If the origin is unknown, the fact
24 shall be stated.

25 (6) the approximate percentage of germination of

1 agricultural seed, together with the date of test of
 2 germination. In all cases where hard seeds remain at the end
 3 of the germination test, the percentage of actual
 4 germination and the percentage of hard seeds shall be stated
 5 separately, with the provision that any portion or all of
 6 the percentage of hard seeds may be added to the percentage
 7 of germination and stated as "total germination and hard
 8 seed".

9 (7) the approximate percentage by weight of pure seed,
 10 meaning the freedom of agricultural seeds from inert matter
 11 and from other seeds;

12 (8) the approximate percentage by weight of sand,
 13 dirt, broken seeds, sticks, chaff, and other inert matter
 14 combined in agricultural seeds;

15 (9) the approximate total percentage by weight of weed
 16 seeds;

17 (10) the approximate percentage by weight of other crop
 18 seeds in agricultural seeds;

19 (11) the name and approximate number of each kind or
 20 species of restricted noxious weed seeds occurring per pound
 21 of agricultural, vegetable, or flower seeds;

22 (12) the full name and address of the seedsman,
 23 importer, dealer or agent, or other person, firm, or
 24 corporation selling the agricultural seed;

25 (13) in the case of mixtures of agricultural seeds

1 which contain two or more kinds of seed in excess of 5% by
 2 weight of each, when sold as mixtures:

3 (a) name of mixture;

4 (b) name and approximate percentage by weight of each
 5 kind of agricultural seed present in the mixture in excess
 6 of 5% by weight of the total mixture;

7 (c) approximate percentage by weight of broken seeds
 8 and other inert matter in the mixture of agricultural seeds;

9 (d) approximate percentage by weight of weed seeds as
 10 defined in 80-5-101;

11 (e) approximate percentage by weight of other crop
 12 seeds in the mixture of agricultural seeds;

13 (f) name and approximate number of each kind or
 14 species of restricted noxious weed seeds occurring per pound
 15 of mixtures of agricultural seeds, subject, however, to
 16 restrictions as specified in 80-5-105;

17 (g) approximate percentage of germination of each kind
 18 of agricultural seed present in the mixture in excess of 5%
 19 by weight, together with the month and year the seed was
 20 tested. In all cases where hard seeds remain at the end of
 21 the germination test, the percentage of actual germination
 22 and the percentage of hard seeds shall be stated separately,
 23 with the provision that any portion or all of the hard seed
 24 may be added to the percentage of germination and stated as
 25 "total germination and hard seed".

1 (h) full name and address of the vendor of the
2 mixture."

3 Section 3. Section 80-5-104, MCA, is amended to read:
4 "80-5-104. Labeling of vegetable_s and flower_s seeds
5 and indigenous seeds. (1) Vegetable and flower seeds in
6 packets and in larger containers shall be labeled with the
7 required information as follows:

8 (++)(A) each container of 1 pound or less:
9 (++)(i) the commonly accepted name of the kind or the
10 kind and variety of the seed;

11 (++)(ii) the name and address of the person who labeled
12 the seed or who sells the seed within this state;

13 (++)(iii) the name and number per pound of each kind of
14 restricted noxious weed seeds as prescribed in 80-5-105;

15 (++)(iv) in the case of seed which has a percentage of
16 germination less than the standard prescribed in the Federal
17 Seed Act:

18 (++)(A) the percentage of germination;

19 (++)(B) the percentage of hard seed, if more than 1%;

20 (++)(C) the month and year the test to determine the
21 data required by this section was completed;

22 (++)(D) the words "below standard germination" in not
23 less than 8-point boldface type;

24 (++)(b) each container of more than 1 pound:

25 (++)(i) the name of the kind and variety of the

1 contents;

2 (++)(ii) the lot numbers or other lot identifications;

3 (++)(iii) the name and number per pound of each kind of
4 restricted noxious weed seeds as prescribed in 80-5-105;

5 (++)(iv) the percentage of germination and whether the
6 percentage of germination meets or exceeds the standard
7 established in the Federal Seed Act;

8 (++)(v) the percentage of hard seed, if more than 1%;

9 (++)(vi) the month and year the test to determine the
10 data required by this section was completed;

11 (++)(vii) the name and address of the person who labeled
12 the seed or who sells the seed within this state.

13 (2) Indigenous seeds, as defined in 80-5-101, in
14 amounts of 1 pound or more, whether in package or bulk, must
15 be labeled with the following information:

16 (a) the statement "Labeled only for reclamation
17 purposes";

18 (b) lot number or other distinguishing mark;

19 (c) the common name, genus, species, and subspecies
20 when applicable, including the name of each kind of seed
21 present in excess of 5%. When two or more kinds of seed are
22 named on the label, the label shall specify the percentage
23 of each. When only one kind of seed is present in excess of
24 5% and no variety name or type designation is shown, the
25 percentage must apply to seed of the kind named. If the name

1 ~~of the variety is given, the name may be associated with the~~
 2 ~~name of the kind. The percentage in this case may be shown~~
 3 ~~as "pure seed" and must apply only to seed of the variety~~
 4 ~~named.~~

5 ~~(d) state of country of origin, if known. If the~~
 6 ~~origin is unknown, that fact shall be stated.~~

7 ~~(e) the approximate percentage of viable seeds,~~
 8 ~~together with the date of test. When labeling mixtures, the~~
 9 ~~percentage viability of each kind shall be stated.~~

10 ~~(f) the approximate percentage by weight of pure seed,~~
 11 ~~meaning the freedom of seed from inert matter and from other~~
 12 ~~seeds;~~

13 ~~(g) the approximate percentage by weight of sand,~~
 14 ~~dirt, broken seeds, sticks, chaff, and other inert matter;~~

15 ~~(h) the approximate total percentage by weight of~~
 16 ~~other seeds;~~

17 ~~(i) the name and approximate number of each kind of~~
 18 ~~species of restricted noxious weed seeds occurring per pound~~
 19 ~~of seed;~~

20 ~~(j) the full name and address of the person, firm, or~~
 21 ~~corporation selling the seed."~~

22 Section 4. Section 80-5-107, MCA, is amended to read:

23 "80-5-107. Exemptions. Agricultural seeds or mixtures
 24 of same shall be exempt from the provisions of this part:

25 (1) when possessed, exposed for sale, or sold for food

1 purposes only;

2 (2) when sold to merchants or dealers to be reseeded
 3 conditioned before being sold or offered for sale for
 4 seeding purposes;

5 (3) when in store for the purpose of reseeded
 6 conditioning or not possessed, sold, or offered for sale for
 7 seeding purposes within the state."

8 Section 5. Section 80-5-112, MCA, is amended to read:

9 "80-5-112. Enforcement -- rules. The department shall
 10 administer and enforce 80-5-101 through 80-5-113. For that
 11 purpose, the department may adopt rules. The department may
 12 issue and enforce a written or printed "stop sale" order to
 13 the owner or custodian of any lot of agricultural seed which
 14 the department finds in violation of 80-5-101 through
 15 80-5-113. The order shall prohibit further sale of the seed
 16 until the department has evidence that the law has been
 17 complied with. The seed may not be confiscated or destroyed.
 18 Upon proper correction, by reprocessing reconditioning,
 19 labeling, or otherwise, and when, in the judgment of the
 20 department, the requirements of 80-5-101 through 80-5-113
 21 have been met, the stop sale order shall be lifted and the
 22 seed may be sold. The department shall adopt all necessary
 23 rules relating to the agricultural experiment station's
 24 duties under 80-5-101 through 80-5-113."

25 Section 6. Section 80-5-201, MCA, is amended to read:

1 "80-5-201. Definitions. When used in this part, the
2 following definitions apply:

3 (1) "Agricultural seed" means the seeds of grass,
4 forage, cereal, and fiber crops and any other kinds of seeds
5 commonly recognized within this state as agricultural seeds
6 and includes lawn seeds and mixtures of seeds.

7 (2) "Bin-run seed sales from one farmer to another
8 farmer" means buyer beware.

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

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

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

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

25 (7) "Seed buyer" means any person engaged in the

1 business of buying agricultural seed for shipment, cleaning,
2 processing, or resale and who does not own, control, or
3 operate a public agricultural seed warehouse. Any
4 individual employed by a seed buyer is not included in this
5 term.

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

9 (9) "Seed labeler" means any person affixing labels to
10 agricultural seeds with his name and address listed as
11 required in 80-5-102 when such seed is distributed in
12 Montana.

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

16 (11) "Seed warehouseman" means any person owning,
17 controlling, or operating a public agricultural seed
18 warehouse."

19 Section 7. Section 80-5-202, MCA, is amended to read:
20 "80-5-202. Licensing -- issuance -- application -- fee
21 -- bonding -- insurance. (1) All seed ~~processing~~
22 ~~conditioning~~ plants, seed labelers, seed buyers, and public
23 agricultural seed warehouses shall obtain a license from the
24 department before doing business in this state; however, a
25 Montana certified seed grower, when ~~processing conditioning~~

1 or labeling certified seed from his own production, is not
2 required to be licensed under this section ~~part~~. Bin-run
3 seed sales from one farmer to another are exempt from this
4 part.

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

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

22 (4) The department may establish by rule minimum
23 standards for equipment and handling procedures for
24 facilities to be licensed and may carry out inspections
25 during normal business hours to determine that these

1 standards are being adhered to.

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

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

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

14 Section 8. Section 80-5-203, MCA, is amended to read:
15 "80-5-203. Dealer's license -- exception -- fee --
16 application -- violation. (1) No person may distribute seed
17 without obtaining a dealer's license from the department for
18 each place of business. No license is required of a person
19 who distributes seeds only in sealed packages of less than
20 10 pounds, packed by a licensed seed labeler and bearing his
21 name and address. Each dealer's license shall cost no more
22 than \$20 a year and expires on June 30 of each year. The
23 department may by rule establish license fees which bear a
24 reasonable relationship to the cost of administering this
25 part. ~~Any licensed processing plant, seed labeler, seed~~

1 ~~buyers--or--public--agricultural--seed--warehouse--may--obtain--a~~
2 ~~dealer's--license--without--additional--fees~~

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

8 (3) Violation of provisions of this section or the
9 distribution of agricultural seeds not legally labeled
10 constitutes adequate grounds for canceling a license or
11 denying a license to a dealer."

12 Section 9. Section 80-5-204, MCA, is amended to read:

13 "80-5-204. Screenings -- restrictions on movements.

14 All screenings whether from seed processing conditioning
15 plants or other sources represent both a valuable and
16 potentially hazardous product. Their movements are
17 restricted as follows:

18 (1) The viability of prohibited noxious weed seed as
19 defined in 80-5-101~~(4)~~(b) shall be destroyed before
20 screenings are utilized in feed or in any other way in which
21 they may propagate their kind. However, if these screenings
22 are sold for feed, it shall be the responsibility of the
23 feed buyer to haul under a tarp cover or other tight
24 container until the provisions of this part are met.

25 (2) The department has authority to issue rules to

1 restrict or exempt from restriction the holding and movement
2 of screenings when the public interest is served by so
3 doing."

4 NEW SECTION. Section 10. Effective date. This act is
5 effective on passage and approval.

-End-