

HOUSE BILL NO. 459

INTRODUCED BY SWITZER

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

IN THE HOUSE

January 24, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 31, 1985	Committee recommend bill do pass as amended. Report adopted.
February 1, 1985	Bill printed and placed on members' desks.
February 2, 1985	Second reading, do pass. Considered correctly engrossed.
February 4, 1985	Third reading, passed. Ayes, 99; Noes, 0. Transmitted to Senate.

IN THE SENATE

February 7, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 14, 1985	Committee recommend bill be concurred in. Report adopted.
February 16, 1985	On motion passed until February 19, 1985, the 38th Legislative Day. Motion adopted.
February 19, 1985	Second reading, concurred in.
February 21, 1985	Third reading, concurred in. Ayes, 49; Noes, 0. Returned to House.

IN THE HOUSE

February 22, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1                                    HOUSE BILL NO. 459  
 2    INTRODUCED BY Switzer  
 3                                    BY REQUEST OF THE  
 4                                    DEPARTMENT OF LIVESTOCK

5  
 6    A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LIVESTOCK  
 7    MARKETING LAWS RELATIVE TO LICENSE AND BOND REQUIREMENTS OF  
 8    BROKERS AND DEALERS, PAYMENTS FOR LIVESTOCK, AND  
 9    JURISDICTION OF JUSTICES' COURTS OVER VIOLATIONS OF  
 10    LIVESTOCK MARKETING LAWS; AMENDING SECTIONS 3-10-303,  
 11    30-2-401, 81-8-213, 81-8-216, 81-8-231, 81-8-233 THROUGH  
 12    81-8-236, 81-8-271 THROUGH 81-8-274, AND 81-8-276 THROUGH  
 13    81-8-279, MCA."

14  
 15    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16            Section 1. Section 3-10-303, MCA, is amended to read:

17            "3-10-303. Criminal jurisdiction. The justices' courts  
 18    have jurisdiction of public offenses committed within the  
 19    respective counties in which such courts are established as  
 20    follows:

21            (1) jurisdiction of all misdemeanors punishable by a  
 22    fine not exceeding \$500 or imprisonment not exceeding 6  
 23    months or both such fine and imprisonment;

24            (2) jurisdiction of all violations of fish and game  
 25    statutes punishable by a fine of not more than \$1,000 or

1    imprisonment for not more than 6 months, or both;  
 2            (3) concurrent jurisdiction with district courts of  
 3    all misdemeanors punishable by a fine only not exceeding  
 4    \$1,500;  
 5            (4) jurisdiction to act as examining and committing  
 6    courts and for such purpose to conduct preliminary hearings;  
 7    and  
 8            (5) jurisdiction of all violations of Title 61,  
 9    chapter 10; and  
 10            (6) all misdemeanor violations of Title 81, chapter 8,  
 11    part 2."

12            Section 2. Section 30-2-401, MCA, is amended to read:

13            "30-2-401. Passing of title -- reservation for  
 14    security -- limited application of this section. Each  
 15    provision of this chapter with regard to the rights,  
 16    obligations and remedies of the seller, the buyer,  
 17    purchasers or other third parties applies irrespective of  
 18    title to the goods except where the provision refers to such  
 19    title. Insofar as situations are not covered by the other  
 20    provisions of this chapter and matters concerning title  
 21    become material the following rules apply:

22            (1) Title to goods cannot pass under a contract for  
 23    sale prior to their identification to the contract  
 24    (30-2-501), and unless otherwise explicitly agreed the buyer  
 25    acquires by their identification a special property as

1 limited by this code. Any retention or reservation by the  
 2 seller of the title (property) in goods shipped or delivered  
 3 to the buyer is limited in effect to a reservation of a  
 4 security interest. Subject to these provisions and to the  
 5 provisions of the Chapter on Secured Transactions (Chapter  
 6 9), title to goods passes from the seller to the buyer in  
 7 any manner and on any conditions explicitly agreed on by the  
 8 parties.

9 (2) Unless otherwise explicitly agreed title passes to  
 10 the buyer at the time and place at which the seller  
 11 completes his performance with reference to the physical  
 12 delivery of the goods, despite any reservation of a security  
 13 interest and even though a document of title is to be  
 14 delivered at a different time or place; and in particular  
 15 and despite any reservation of a security interest by the  
 16 bill of lading:

17 (a) if the contract requires or authorizes the seller  
 18 to send the goods to the buyer but does not require him to  
 19 deliver them at destination, title passes to the buyer at  
 20 the time and place of shipment; but

21 (b) if the contract requires delivery at destination,  
 22 title passes on tender there.

23 (3) Unless otherwise explicitly agreed where delivery  
 24 is to be made without moving the goods,

25 (a) if the seller is to deliver a document of title,

1 title passes at the time when and the place where he  
 2 delivers such documents; or

3 (b) if the goods are at the time of contracting  
 4 already identified and no documents are to be delivered,  
 5 title passes at the time and place of contracting.

6 (4) For transactions involving interstate shipment of  
 7 cattle the seller may ~~issue a regular title or bill of sale,~~  
 8 or only give a conditional transfer of title or bill of  
 9 sale. The conditional transfer of title or bill of sale is  
 10 fully validated and the title passes when the following  
 11 conditions are met:

12 (a) the bank on which the buyer's warrant, check, or  
 13 draft was drawn, notifies the seller, or his designated  
 14 bank, that the instrument of payment has cleared the bank  
 15 for payment, and

16 (b) a copy of the notification from the buyer's bank  
 17 is attached to the conditional transfer of title or bill of  
 18 sale.

19 (5) A rejection or other refusal by the buyer to  
 20 receive or retain the goods, whether or not justified, or a  
 21 justified revocation of acceptance reverts title to the  
 22 goods in the seller. Such reversion occurs by operation of  
 23 law and is not a "sale".

24 Section 3. Section 81-8-213, MCA, is amended to read:  
 25 "81-8-213. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Board" means the board of livestock provided for  
3 in 2-15-3102.

4 (2) "Department" means the department of livestock  
5 provided for in Title 2, chapter 15, part 31.

6 (3) "Livestock" means cattle, calves, hogs, pigs,  
7 horses, mules, sheep, lambs, and goats.

8 ~~†4) "Livestock broker" means a business, not including~~  
9 ~~facilities, conducted for the receiving, handling, and care~~  
10 ~~of livestock and involving livestock purchased by it for its~~  
11 ~~own account for resale, for the account of any principal for~~  
12 ~~delivery to him, or for slaughter. It does not include a~~  
13 ~~farmer or rancher who buys or sells livestock in the~~  
14 ~~ordinary course of his farming or ranching operation.~~

15 †5) (4) "Livestock dealer" means a person engaged in  
16 the business conducted in facilities utilized for the  
17 receiving, handling, and care of livestock purchased by it  
18 for its own account for resale, for the account of any  
19 principal for delivery to him, or for slaughter of buying or  
20 selling livestock. It does not include a farmer or rancher  
21 who buys or sells livestock in the ordinary course of his  
22 farming or ranching operation.

23 †6) (5) "Livestock market" means a place where a person  
24 for compensation assembles livestock for sale, except:

25 (a) a place used solely for a dispersal sale of the

1 livestock of a farmer, dairyman, livestock breeder, or  
2 feeder who is discontinuing business and at which no other  
3 livestock is sold or offered for sale;

4 (b) a farm, ranch, or place where livestock either  
5 raised or kept thereon for the grazing season or for  
6 fattening is sold and to which no other livestock is brought  
7 for sale or to be offered for sale;

8 (c) the premises of a butcher, packer, or processor  
9 who receives animals exclusively for immediate slaughter;

10 (d) the premises of a person engaged in the raising of  
11 livestock for breeding purposes only, who limits his sale to  
12 livestock of his own production;

13 (e) a place where a breeder or an association of  
14 breeders of livestock of any class assembles and offers for  
15 sale and sells under his or its own management any  
16 livestock, when the breeder or association of breeders  
17 assumes all responsibility for the sale and the title of  
18 livestock sold.

19 †7) (6) "Person" means an individual, firm,  
20 association, partnership, or corporation.

21 †8) (7) "Test station sale" means the sale of livestock  
22 from a place where livestock is taken to measure rates of  
23 gain under uniform feeding conditions when that place is not  
24 owned by the owner of the livestock."

25 Section 4. Section 81-8-216, MCA, is amended to read:

1 "81-8-216. Penalties. (1) A person who violates any  
 2 provision of 81-8-214, 81-8-215, and 81-8-251 through  
 3 81-8-263 or rules adopted by the department under 81-8-231  
 4 is guilty of a misdemeanor and upon conviction shall be  
 5 fined not less than \$100 or more than \$600, imprisoned in  
 6 the county jail not less than 30 days or more than 6 months,  
 7 or both. A person convicted of a subsequent violation of  
 8 81-8-214, 81-8-215, and 81-8-251 through 81-8-263 or rules  
 9 adopted under 81-8-231 shall be fined not less than \$200 or  
 10 more than \$1,000, imprisoned in the county jail for not less  
 11 than 3 months or more than 6 months, or both, and the  
 12 department may cancel his certificate.

13 (2) Of all fines assessed and collected under this  
 14 section, 50% shall be paid into the state treasury and  
 15 credited to the special revenue fund for the use of the  
 16 department and 50% shall be paid into the general revenue  
 17 fund of the county in which the conviction occurred."

18 Section 5. Section 81-8-231, MCA, is amended to read:

19 "81-8-231. Duties of department. The department shall:

20 (1) supervise and regulate livestock markets;  
 21 ~~livestock-brokers~~; and livestock dealers in this state;

22 (2) regulate the properties, facilities, operations,  
 23 services, and practices of all livestock markets;~~livestock~~  
 24 ~~brokers~~; and livestock dealers;

25 (3) supervise and regulate livestock markets in all

1 matters affecting the relationship between the livestock  
 2 market and owners of livestock and between the livestock  
 3 market and purchasers of livestock;

4 (4) prescribe by general order or otherwise rules in  
 5 conformity with this part applicable to all livestock  
 6 markets;~~livestock-brokers~~; or livestock dealers and not in  
 7 conflict with the laws of the United States or regulations  
 8 of the United States department of agriculture or other  
 9 federal agencies;

10 (5) enforce this part and adopt rules necessary to  
 11 carry out this part."

12 Section 6. Section 81-8-233, MCA, is amended to read:

13 "81-8-233. Title warranty of livestock sold. A  
 14 livestock market;~~livestock-broker~~; or livestock dealer  
 15 shall warrant to the purchaser thereof the title of all  
 16 livestock sold. A livestock market is liable to the rightful  
 17 owner of all livestock sold for the net proceeds for such  
 18 livestock whether or not the rightful owner was known to the  
 19 market at the time of the sale."

20 Section 7. Section 81-8-234, MCA, is amended to read:

21 "81-8-234. Financial responsibility. (1) Every  
 22 livestock market;~~livestock-broker~~; or livestock dealer  
 23 shall maintain a financial condition of total assets in  
 24 excess of total liability, including total current assets in  
 25 excess of total current liabilities.

1 (2) Payment for livestock purchased shall be made upon  
 2 completion of the sales transaction. Payment in all  
 3 livestock transactions shall be made by cash, check, or  
 4 draft, as defined in 30-3-104; by electronic funds transfer,  
 5 as defined in 32-6-103; or by any other bankable  
 6 instrument."

7 Section 8. Section 81-8-235, MCA, is amended to read:

8 "81-8-235. Penalties for financial violations. (1) A  
 9 person found, after notice and hearing, to be in violation  
 10 of 81-8-234 shall be assessed a civil penalty by the  
 11 department of not less than \$100 or more than \$5,000, have  
 12 his license or certificate suspended or revoked, or both.

13 (2) A person found, after notice and hearing, to have  
 14 committed a subsequent violation of 81-8-234 after the  
 15 department has assessed a penalty pursuant to subsection (1)  
 16 shall be fined not less than \$250 or more than \$5,000 and  
 17 have his license or certificate suspended or revoked.

18 ~~(3) The maker of any bankable instrument who knowingly~~  
 19 ~~and without right fails to honor or causes another to~~  
 20 ~~dishonor that instrument once it is issued or delivered in~~  
 21 ~~payment for a livestock purchase is guilty of a felony and~~  
 22 ~~on conviction may be imprisoned for not more than 5 years or~~  
 23 ~~fined not more than \$10,000, or both. A person, whether or~~  
 24 ~~not licensed under this part, who issues or delivers a check~~  
 25 ~~or other order upon a real or fictitious depository in~~

1 payment for a livestock purchase knowing that it will not be  
 2 paid by the depository is guilty of a felony and on  
 3 conviction may be imprisoned for not more than 5 years or  
 4 fined not more than \$10,000, or both. If the person has an  
 5 account with the depository, failure to make good the check  
 6 or other order within 5 days after written notice of  
 7 nonpayment has been received by the issuer is prima facie  
 8 evidence that he knew it would not be paid by the  
 9 depository."

10 Section 9. Section 81-8-236, MCA, is amended to read:

11 "81-8-236. Injunctive remedy. The operation of a  
 12 livestock market or the buying or selling of livestock by a  
 13 person not licensed or certified and bonded as required by  
 14 this part may be enjoined by the district court on petition  
 15 from the department upon a showing that a person is engaged  
 16 in the business of a livestock market, ~~livestock broker,~~ or  
 17 livestock dealer as defined in 81-8-213 without the license  
 18 or certificate and bond required by this part. The court  
 19 shall enjoin the person from further activities as a  
 20 livestock market operator, ~~livestock broker,~~ or livestock  
 21 dealer until the license or certificate and bond have been  
 22 properly obtained. It is not necessary to show that any  
 23 individual has been injured by the actions complained of in  
 24 order to obtain the issuance of the injunction. The  
 25 injunctive relief provided by this section is an additional

1 remedy to the criminal penalties provided in this part."

2 Section 10. Section 81-8-271, MCA, is amended to read:

3 "81-8-271. License to operate as livestock broker or  
4 dealer -- application. (1) No person may operate as a  
5 ~~livestock--broker--or~~ livestock dealer without a license. A  
6 person who wishes to operate as a ~~livestock--broker--or~~  
7 livestock dealer shall file with the department an  
8 application for a license to transact such business on a  
9 form prescribed by the department stating the type of  
10 license sought and the following information:

11 (a) the names of the persons applying for the license  
12 together with their permanent addresses and, if the  
13 applicant is a firm, association, partnership, or  
14 corporation, the names of its directors, officers, and  
15 members, if applicable;

16 (b) the post-office address and principal place of  
17 business of the applicant;

18 (c) if the applicant is a foreign corporation, its  
19 principal place of business outside the state, the name of  
20 the state in which it is incorporated, and a statement  
21 showing that it has complied with the laws of this state  
22 relating to foreign corporations and its right to do  
23 business in this state;

24 (d) a detailed financial statement setting forth all  
25 assets and liabilities of the applicant pertinent to the

1 business for which the license is sought.

2 ~~(e) --if--the--applicant--is--a--livestock--dealer;--a~~  
3 ~~description--of--the--facilities--at--which--he--proposes--to~~  
4 ~~operate.~~

5 (2) An application fee of \$50 must be submitted with  
6 each application for a ~~livestock--broker's--or~~ livestock  
7 dealer's license. The fee shall be the first annual fee if  
8 the license is granted.

9 (3) A person who purports to act as an agent for a  
10 livestock dealer in the purchase or sale of livestock may  
11 not engage in such business activities without a livestock  
12 dealer's license."

13 Section 11. Section 81-8-272, MCA, is amended to read:

14 "81-8-272. Issuance of livestock dealer's license.  
15 When an applicant has paid the fee and met the requirements  
16 of 81-8-271, the department shall issue to the applicant a  
17 license which entitles the licensee to ~~engage--in--the~~  
18 ~~business--specified--in--his--application~~ operate as a livestock  
19 dealer for a period of 1 year unless the license is  
20 suspended or revoked under this part."

21 Section 12. Section 81-8-273, MCA, is amended to read:

22 "81-8-273. Refusal to issue or renew license. (1) The  
23 department shall refuse to issue or renew a license if the  
24 applicant:

25 ~~(1)~~ (a) has failed to maintain a financial condition of



1 total assets in excess of total liabilities, including total  
2 current assets in excess of total current liabilities;

3 †2)(b) is in violation of any of the provisions of  
4 this part;

5 †3)(c) has knowingly made false or misleading  
6 statements as to the health or physical condition of  
7 livestock or practiced fraud or misrepresentation in  
8 connection with the buying or receiving of livestock or the  
9 selling, exchanging, soliciting, or negotiating of the sale  
10 of livestock or the weighing of the same;

11 †4)(d) has failed to keep records of all purchases and  
12 sales or refused to grant inspection of such records by  
13 authorized agents of the department;

14 †5)(e) is in violation of the rules adopted by the  
15 department;

16 †6)(f) has failed to comply with a lawful order of the  
17 department;

18 †7)(g) has not filed a surety bond in the form and  
19 amount required under 81-8-277;

20 †8)(h) has been found by the department to have failed  
21 to pay, without reasonable cause, obligations incurred in  
22 connection with livestock transactions;

23 †9)(i) has been suspended by the order of the  
24 secretary of agriculture of the United States department of  
25 agriculture under provisions of the Packers and Stockyards

1 Act, 1921, as amended, 7 U.S.C. 181, et seq.; or

2 †j) employs a person required to be licensed whose  
3 license cannot be renewed or whose license is under  
4 suspension or revocation by the department or the United  
5 States department of agriculture.

6 †2) An applicant refused a license or license renewal  
7 may not apply again for 1 year following refusal unless the  
8 department determines that the applicant has met the  
9 requirements of this part."

10 Section 13. Section 81-8-274, MCA, is amended to read:

11 "81-8-274. Suspension or revocation of license. (1)  
12 Whenever the department finds that any ~~livestock-broker-or~~  
13 ~~livestock dealer~~ has violated the provisions of this part or  
14 rules adopted under this part, the department may, by order,  
15 suspend the license of such person for a period not to  
16 exceed 1 year, and if the violation is repeated, the  
17 department may, by order, after hearing, permanently revoke  
18 the license of such person.

19 (2) Before any license issued under this part may be  
20 suspended or revoked, the licensee shall be furnished with a  
21 copy of the complaint made against him and a hearing shall  
22 be had before the department to determine whether the  
23 license should be suspended or revoked. The licensee shall  
24 be given notice of the time and the place of such hearing.  
25 The notice may be served by registered or certified mail at

1 the post-office address listed in the application. The  
 2 hearing must be held not less than 10 days or more than 30  
 3 days after the mailing of the notice. At the time and place  
 4 set for the hearing, the department shall take and receive  
 5 evidence, under oath, with respect to the complaint, and  
 6 upon such evidence received, shall promptly dismiss the  
 7 proceedings or revoke or suspend the license."

8 Section 14. Section 81-8-276, MCA, is amended to read:

9 "81-8-276. Annual fee and financial statement.

10 Livestock ~~brokers-and-livestock~~ dealers shall pay an annual  
 11 fee established by the department and supply a current  
 12 financial statement. The fee is payable on May 1 to the  
 13 state treasurer to the credit of the department."

14 Section 15. Section 81-8-277, MCA, is amended to read:

15 "81-8-277. Bond requirement. (1) A ~~livestock-broker-or~~  
 16 ~~livestock~~ dealer applying for a license under this part  
 17 shall maintain a bond in the form and amount set forth in  
 18 ~~this section,--or--if-he-is-registered-and-bonded-under-the~~  
 19 ~~Packers-and-Stockyards-Act,1921,7-B.S.C.-1817-et-seq,7--he~~  
 20 ~~shall--file--a--statement--with-the-department-showing-he-is~~  
 21 ~~maintaining-a-bond-or-its-equivalent-under-the--Packers--and~~  
 22 ~~Stockyards--Act.~~ The department may require evidence of the  
 23 bond to be filed with it.

24 (2) The amount of the bond shall be set by the  
 25 department but may not be less than \$5,000. The bond shall

1 contain the following conditions:

2 "This bond is conditioned on the principal paying to  
 3 the rightful recipient the purchase price of all livestock  
 4 he purchases for himself or others and on the principal  
 5 safely keeping and properly disbursing all funds received on  
 6 behalf of others."

7 (3) Each bond shall contain provisions that a person  
 8 damaged by failure of the principal to comply with the  
 9 condition clause of the bond may bring an action to recover  
 10 on the bond. At least 30 days' notice in writing shall be  
 11 given to the department by any party terminating the bond."

12 Section 16. Section 81-8-278, MCA, is amended to read:

13 "81-8-278. Records. A ~~livestock--broker--or~~ livestock  
 14 ~~dealer~~ shall maintain records that disclose all purchases  
 15 and sales of livestock. A ~~livestock--broker--or~~ livestock  
 16 ~~dealer~~ shall, at all reasonable times, give the department  
 17 access to and let the department copy any of the records  
 18 relating to his business."

19 Section 17. Section 81-8-279, MCA, is amended to read:

20 "81-8-279. Penalties. (1) A person who violates any  
 21 provision of 81-8-271 through 81-8-273 and 81-8-276 through  
 22 81-8-278 or rules adopted by the department under 81-8-231  
 23 is guilty of a misdemeanor and upon conviction shall be  
 24 fined not less than \$250 or more than \$1,000 or imprisoned  
 25 for not more than 6 months, or both.

1        (2) Of all fines assessed and collected under this  
2 section, 50% shall be paid into the state treasury and  
3 credited to the special revenue fund for the use of the  
4 department and 50% shall be paid into the general revenue  
5 fund of the county in which the conviction occurred."

6        NEW SECTION. Section 18. Extension of authority. Any  
7 existing authority of the department of livestock to make  
8 rules on the subject of the provisions of this act is  
9 extended to the provisions of this act.

-End-

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

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3 BY REQUEST OF THE  
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22 fine not exceeding \$500 or imprisonment not exceeding 6  
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25 statutes punishable by a fine of not more than \$1,000 or

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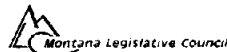
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6 courts and for such purpose to conduct preliminary hearings;  
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8 (5) jurisdiction of all violations of Title 61,  
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22 ~~(1) Title to goods cannot pass under a contract for~~  
23 ~~sale prior to their identification to the contract~~  
24 ~~(30-2-501); and unless otherwise explicitly agreed the buyer~~  
25 ~~acquires by their identification a special property as~~



1 limited-by-this-code.-Any-retention-or-reservation-by-the  
 2 seller-of-the-title-(property)-in-goods-shipped-or-delivered  
 3 to-the-buyer-is-limited-in-effect--to-a-reservation--of-a  
 4 security--interest.---Subject-to-these-provisions-and-to-the  
 5 provisions-of-the-Chapter-on-Secured--Transactions--(Chapter  
 6 9),--title--to--goods-passes-from-the-seller-to-the-buyer-in  
 7 any-manner-and-on-any-conditions-explicitly-agreed-on-by-the  
 8 parties.

9 (2)--Unless-otherwise-explicitly-agreed-title-passes-to  
 10 the-buyer--at--the--time--and--place--at--which--the--seller  
 11 completes--his--performance--with--reference-to-the-physical  
 12 delivery-of-the-goods;-despite-any-reservation-of-a-security  
 13 interest-and-even-though--a--document--of--title--is--to--be  
 14 delivered--at--a--different-time-or-place;-and-in-particular  
 15 and-despite-any-reservation-of-a-security--interest--by--the  
 16 bill-of-lading;

17 (a)--if--the--contract--requires--or--authorizes--the--seller  
 18 to-send-the-goods-to-the-buyer-but-does-not-require--him--to  
 19 deliver--them--at--destination;-title-passes-to-the-buyer-at  
 20 the-time-and-place-of-shipment;-but

21 (b)--if--the--contract--requires--delivery--at--destination;-  
 22 title-passes-on-tender--there;

23 (3)--Unless--otherwise-explicitly-agreed-where-delivery  
 24 is-to-be-made-without-moving-the-goods;

25 (a)--if--the--seller--is--to--deliver--a--document--of--title;

1 title--passes--at--the--time--when--and--the--place--where--he  
 2 delivers-such-documents;-or

3 (b)--if--the--goods--are--at--the--time--of--contracting  
 4 already--identified--and--no--documents-are-to-be-delivered;  
 5 title-passes-at-the-time-and-place-of-contracting;

6 (4)--For-transactions-involving-interstate-shipment--of  
 7 cattle-the-seller-may-issue-a-regular-title-or-bill-of-sale;  
 8 or only-give--a--conditional--transfer-of-title-or-bill-of  
 9 sale.--The-conditional-transfer-of-title-or-bill-of-sale--is  
 10 fully--validated--and--the--title--passes-when-the-following  
 11 conditions-are-met:

12 (a)--the-bank-on-which-the-buyer's-warrant;-check;-or  
 13 draft--was--drawn;-notifies--the--seller;-or-his-designated  
 14 bank;-that-the-instrument-of-payment-has--cleared--the--bank  
 15 for-payment;-and

16 (b)--a--copy--of--the--notification--from--the--buyer's-bank  
 17 is-attached-to-the-conditional-transfer-of-title-or-bill--of  
 18 sale;

19 (5)--A--rejection--or--other--refusal--by--the-buyer-to  
 20 receive-or-retain-the-goods;-whether-or-not-justified;-or--a  
 21 justified--revocation--of--acceptance--revests--title-to-the  
 22 goods-in-the-seller;-Such-revesting-occurs-by--operation--of  
 23 law-and-is-not-a-"sale".

24 Section 2. Section 81-8-213, MCA, is amended to read:  
 25 "81-8-213. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Board" means the board of livestock provided for  
3 in 2-15-3102.

4 (2) "Department" means the department of livestock  
5 provided for in Title 2, chapter 15, part 31.

6 (3) "Livestock" means cattle, calves, hogs, pigs,  
7 horses, mules, sheep, lambs, and goats.

8 ~~{4} "Livestock broker" means a business, not including~~  
9 ~~facilities, conducted for the receiving, handling, and care~~  
10 ~~of livestock and involving livestock purchased by it for its~~  
11 ~~own account for resale, for the account of any principal for~~  
12 ~~delivery to him, or for slaughter. It does not include a~~  
13 ~~farmer or rancher who buys or sells livestock in the~~  
14 ~~ordinary course of his farming or ranching operation.~~

15 {5}{4} "Livestock dealer" means a person engaged in  
16 the business conducted in facilities utilized for the  
17 receiving, handling, and care of livestock purchased by it  
18 for its own account for resale, for the account of any  
19 principal for delivery to him, or for slaughter of buying or  
20 selling livestock. It does not include a farmer or rancher  
21 who buys or sells livestock in the ordinary course of his  
22 farming or ranching operation.

23 {6}{5} "Livestock market" means a place where a person  
24 for compensation assembles livestock for sale, except:

25 (a) a place used solely for a dispersal sale of the

1 livestock of a farmer, dairyman, livestock breeder, or  
2 feeder who is discontinuing business and at which no other  
3 livestock is sold or offered for sale;

4 (b) a farm, ranch, or place where livestock either  
5 raised or kept thereon for the grazing season or for  
6 fattening is sold and to which no other livestock is brought  
7 for sale or to be offered for sale;

8 (c) the premises of a butcher, packer, or processor  
9 who receives animals exclusively for immediate slaughter;

10 (d) the premises of a person engaged in the raising of  
11 livestock for breeding purposes only, who limits his sale to  
12 livestock of his own production;

13 (e) a place where a breeder or an association of  
14 breeders of livestock of any class assembles and offers for  
15 sale and sells under his or its own management any  
16 livestock, when the breeder or association of breeders  
17 assumes all responsibility for the sale and the title of  
18 livestock sold.

19 {7}{6} "Person" means an individual, firm,  
20 association, partnership, or corporation.

21 {8}{7} "Test station sale" means the sale of livestock  
22 from a place where livestock is taken to measure rates of  
23 gain under uniform feeding conditions when that place is not  
24 owned by the owner of the livestock."

25 Section 3. Section 81-8-216, MCA, is amended to read:

1 "81-8-216. Penalties. (1) A person who violates any  
 2 provision of 81-8-214, 81-8-215, and 81-8-251 through  
 3 81-8-263 or rules adopted by the department under 81-8-231  
 4 is guilty of a misdemeanor and upon conviction shall be  
 5 fined not less than \$100 or more than \$600, imprisoned in  
 6 the county jail not less than 30 days or more than 6 months,  
 7 or both. A person convicted of a subsequent violation of  
 8 81-8-214, 81-8-215, and 81-8-251 through 81-8-263 or rules  
 9 adopted under ~~81-8-231~~ TO IMPLEMENT THOSE SECTIONS shall be  
 10 fined not less than \$200 or more than \$1,000, imprisoned in  
 11 the county jail for not less than 3 months or more than 6  
 12 months, or both, and the department may cancel his  
 13 certificate.

14 (2) Of all fines assessed and collected under this  
 15 section, 50% shall be paid into the state treasury and  
 16 credited to the special revenue fund for the use of the  
 17 department and 50% shall be paid into the general revenue  
 18 fund of the county in which the conviction occurred."

19 Section 4. Section 81-8-231, MCA, is amended to read:

20 "81-8-231. Duties of department. The department shall:

21 (1) supervise and regulate livestock markets;  
 22 ~~livestock-brokers~~; and livestock dealers in this state;

23 (2) regulate the properties, facilities, operations,  
 24 services, and practices of all livestock markets;~~livestock~~  
 25 ~~brokers~~; and livestock dealers;

1 (3) supervise and regulate livestock markets in all  
 2 matters affecting the relationship between the livestock  
 3 market and owners of livestock and between the livestock  
 4 market and purchasers of livestock;

5 (4) prescribe by general order or otherwise rules in  
 6 conformity with this part applicable to all livestock  
 7 markets;~~livestock-brokers~~; or livestock dealers and not in  
 8 conflict with the laws of the United States or regulations  
 9 of the United States department of agriculture or other  
 10 federal agencies;

11 (5) enforce this part and adopt rules necessary to  
 12 carry out this part."

13 Section 5. Section 81-8-233, MCA, is amended to read:

14 "81-8-233. Title warranty of livestock sold. A  
 15 livestock market;~~livestock--broker~~; or livestock dealer  
 16 shall warrant to the purchaser thereof the title of all  
 17 livestock sold. A livestock market is liable to the rightful  
 18 owner of all livestock sold for the net proceeds for such  
 19 livestock whether or not the rightful owner was known to the  
 20 market at the time of the sale."

21 Section 6. Section 81-8-234, MCA, is amended to read:

22 "81-8-234. Financial responsibility. (1) Every  
 23 livestock market;~~livestock--broker~~; or livestock dealer  
 24 shall maintain a financial condition of total assets in  
 25 excess of total liability, including total current assets in

1 excess of total current liabilities.

2 (2) Payment for livestock purchased shall be made upon  
3 completion of the sales transaction. Payment in all  
4 livestock transactions shall be made by cash, check, or  
5 draft, as defined in 30-3-104; by electronic funds transfer,  
6 as defined in 32-6-103; or by any other bankable  
7 instrument."

8 Section 7. Section 81-8-235, MCA, is amended to read:

9 "81-8-235. Penalties for financial violations. (1) A  
10 person found, after notice and hearing, to be in violation  
11 of 81-8-234 shall be assessed a civil penalty by the  
12 department of not less than \$100 or more than \$5,000, have  
13 his license or certificate suspended or revoked, or both.

14 (2) A person found, after notice and hearing, to have  
15 committed a subsequent violation of 81-8-234 after the  
16 department has assessed a penalty pursuant to subsection (1)  
17 shall be fined not less than \$250 or more than \$5,000 and  
18 have his license or certificate suspended or revoked.

19 ~~(3) The maker of any bankable instrument who knowingly  
20 and without right fails to honor or causes another to  
21 dishonor that instrument once it is issued or delivered in  
22 payment for a livestock purchase is guilty of a felony and  
23 on conviction may be imprisoned for not more than 5 years or  
24 fined not more than \$10,000, or both. A person, whether or  
25 not licensed under this part, who issues or delivers a check~~

1 or other order upon a real or fictitious depository in  
2 payment for a livestock purchase knowing that it will not be  
3 paid by the depository is guilty of a felony and on  
4 conviction may be imprisoned for not more than 5 years or  
5 fined not more than \$10,000, or both. If the person has an  
6 account with the depository, failure to make good the check  
7 or other order within 5 days after written notice of  
8 nonpayment has been received by the issuer is prima facie  
9 evidence that he knew it would not be paid by the  
10 depository."

11 Section 8. Section 81-8-236, MCA, is amended to read:

12 "81-8-236. Injunctive remedy. The operation of a  
13 livestock market or the buying or selling of livestock by a  
14 person not licensed or certified and bonded as required by  
15 this part may be enjoined by the district court on petition  
16 from the department upon a showing that a person is engaged  
17 in the business of a livestock market, ~~livestock broker,~~ or  
18 livestock dealer as defined in 81-8-213 without the license  
19 or certificate and bond required by this part. The court  
20 shall enjoin the person from further activities as a  
21 livestock market operator, ~~livestock broker,~~ or livestock  
22 dealer until the license or certificate and bond have been  
23 properly obtained. It is not necessary to show that any  
24 individual has been injured by the actions complained of in  
25 order to obtain the issuance of the injunction. The



1 injunctive relief provided by this section is an additional  
2 remedy to the criminal penalties provided in this part."

3 Section 9. Section 81-8-271, MCA, is amended to read:

4 "81-8-271. License to operate as livestock ~~broker--or~~  
5 dealer -- application. (1) No person may operate as a  
6 ~~livestock-broker-or~~ livestock dealer without a license. A  
7 person who wishes to operate as a ~~livestock-broker-or~~  
8 livestock dealer shall file with the department an  
9 application for a license to transact such business on a  
10 form prescribed by the department stating the type of  
11 license sought and the following information:

12 (a) the names of the persons applying for the license  
13 together with their permanent addresses and, if the  
14 applicant is a firm, association, partnership, or  
15 corporation, the names of its directors, officers, and  
16 members, if applicable;

17 (b) the post-office address and principal place of  
18 business of the applicant;

19 (c) if the applicant is a foreign corporation, its  
20 principal place of business outside the state, the name of  
21 the state in which it is incorporated, and a statement  
22 showing that it has complied with the laws of this state  
23 relating to foreign corporations and its right to do  
24 business in this state;

25 (d) a detailed financial statement setting forth all

1 assets and liabilities of the applicant pertinent to the  
2 business for which the license is sought;.

3 ~~(e) --if--the--applicant--is--a--livestock--dealer,--a~~  
4 ~~description-of--the--facilities--at--which--he--proposes--to~~  
5 ~~operate.~~

6 (2) An application fee of \$50 must be submitted with  
7 each application for a ~~livestock--broker's--or~~ livestock  
8 dealer's license. The fee shall be the first annual fee if  
9 the license is granted.

10 (3) A person who purports to act as an agent for a  
11 livestock dealer in the purchase or sale of livestock may  
12 not engage in such business activities without a livestock  
13 dealer's license."

14 Section 10. Section 81-8-272, MCA, is amended to read:

15 "81-8-272. Issuance of livestock dealer's license.  
16 When an applicant has paid the fee and met the requirements  
17 of 81-8-271, the department shall issue to the applicant a  
18 license which entitles the licensee to ~~engage--in--the~~  
19 ~~business-specified-in-his-application~~ operate as a livestock  
20 dealer for a period of 1 year unless the license is  
21 suspended or revoked under this part."

22 Section 11. Section 81-8-273, MCA, is amended to read:

23 "81-8-273. Refusal to issue or renew license. (1) The  
24 department shall refuse to issue or renew a license if the  
25 applicant:

1       †1) (a) has failed to maintain a financial condition of  
2 total assets in excess of total liabilities, including total  
3 current assets in excess of total current liabilities;

4       †2) (b) is in violation of any of the provisions of  
5 this part;

6       †3) (c) has knowingly made false or misleading  
7 statements as to the health or physical condition of  
8 livestock or practiced fraud or misrepresentation in  
9 connection with the buying or receiving of livestock or the  
10 selling, exchanging, soliciting, or negotiating of the sale  
11 of livestock or the weighing of the same;

12       †4) (d) has failed to keep records of all purchases and  
13 sales or refused to grant inspection of such records by  
14 authorized agents of the department;

15       †5) (e) is in violation of the rules adopted by the  
16 department;

17       †6) (f) has failed to comply with a lawful order of the  
18 department;

19       †7) (g) has not filed a surety bond in the form and  
20 amount required under 81-8-277;

21       †8) (h) has been found by the department to have failed  
22 to pay, without reasonable cause, obligations incurred in  
23 connection with livestock transactions;

24       †9) (i) has been suspended by the order of the  
25 secretary of agriculture of the United States department of

1 agriculture under provisions of the Packers and Stockyards  
2 Act, 1921, as amended, 7 U.S.C. 181, et seq.; or

3       (j) employs a person required to be licensed whose  
4 license cannot be renewed or whose license is under  
5 suspension or revocation by the department or the United  
6 States department of agriculture.

7       (2) An applicant refused a license or license renewal  
8 may not apply again for 1 year following refusal unless the  
9 department determines that the applicant has met the  
10 requirements of this part."

11       Section 12. Section 81-8-274, MCA, is amended to read:

12       "81-8-274. Suspension or revocation of license. (1)  
13 Whenever the department finds that any ~~livestock--broker--or~~  
14 ~~livestock dealer~~ has violated the provisions of this part or  
15 rules adopted under this part, the department may, by order,  
16 suspend the license of such person for a period not to  
17 exceed 1 year, and if the violation is repeated, the  
18 department may, by order, after hearing, permanently revoke  
19 the license of such person.

20       (2) Before any license issued under this part may be  
21 suspended or revoked, the licensee shall be furnished with a  
22 copy of the complaint made against him and a hearing shall  
23 be had before the department to determine whether the  
24 license should be suspended or revoked. The licensee shall  
25 be given notice of the time and the place of such hearing.

1 The notice may be served by registered or certified mail at  
 2 the post-office address listed in the application. The  
 3 hearing must be held not less than 10 days or more than 30  
 4 days after the mailing of the notice. At the time and place  
 5 set for the hearing, the department shall take and receive  
 6 evidence, under oath, with respect to the complaint, and  
 7 upon such evidence received, shall promptly dismiss the  
 8 proceedings or revoke or suspend the license."

9 Section 13. Section 81-8-276, MCA, is amended to read:

10 "81-8-276. Annual fee and financial statement.  
 11 Livestock ~~brokers-and-livestock~~ dealers shall pay an annual  
 12 fee established by the department and supply a current  
 13 financial statement. The fee is payable on May 1 to the  
 14 state treasurer to the credit of the department."

15 Section 14. Section 81-8-277, MCA, is amended to read:

16 "81-8-277. Bond requirement. (1) A ~~livestock-broker-or~~  
 17 livestock dealer applying for a license under this part  
 18 shall maintain a bond in the form and amount set forth in  
 19 this section, ~~or-if-he-is-registered-and-bonded-under-the~~  
 20 ~~Packers--and-Stockyards-Act,--1921,--7-U.S.C.--181,--et-seq,--he~~  
 21 ~~shall-file-a-statement-with-the--department--showing--he--is~~  
 22 ~~maintaining--a--bond-or-its-equivalent-under-the-Packers-and~~  
 23 ~~Stockyards-Act.~~ The department may require evidence of the  
 24 bond to be filed with it.

25 (2) The amount of the bond shall be set by the

1 department but may not be less than \$5,000. The bond shall  
 2 contain the following conditions:

3 "This bond is conditioned on the principal paying to  
 4 the rightful recipient the purchase price of all livestock  
 5 he purchases for himself or others and on the principal  
 6 safely keeping and properly disbursing all funds received on  
 7 behalf of others."

8 (3) Each bond shall contain provisions that a person  
 9 damaged by failure of the principal to comply with the  
 10 condition clause of the bond may bring an action to recover  
 11 on the bond. At least 30 days' notice in writing shall be  
 12 given to the department by any party terminating the bond."

13 Section 15. Section 81-8-278, MCA, is amended to read:

14 "81-8-278. Records. A ~~livestock--broker-or~~ livestock  
 15 dealer shall maintain records that disclose all purchases  
 16 and sales of livestock. A ~~livestock-broker-or~~ livestock  
 17 dealer shall, at all reasonable times, give the department  
 18 access to and let the department copy any of the records  
 19 relating to his business."

20 Section 16. Section 81-8-279, MCA, is amended to read:

21 "81-8-279. Penalties. (1) A person who violates any  
 22 provision of 81-8-271 through 81-8-273 and 81-8-276 through  
 23 81-8-278 or rules adopted by the department ~~under--81-8-231~~  
 24 TO IMPLEMENT THOSE SECTIONS is guilty of a misdemeanor and  
 25 upon conviction shall be fined not less than \$250 or more

1 than \$1,000 or imprisoned for not more than 6 months, or  
2 both.

3 (2) Of all fines assessed and collected under this  
4 section, 50% shall be paid into the state treasury and  
5 credited to the special revenue fund for the use of the  
6 department and 50% shall be paid into the general revenue  
7 fund of the county in which the conviction occurred."

8 NEW SECTION. Section 17. Extension of authority. Any  
9 existing authority of the department of livestock to make  
10 rules on the subject of the provisions of this act is  
11 extended to the provisions of this act.

-End-

1 HOUSE BILL NO. 459  
 2 INTRODUCED BY SWITZER  
 3 BY REQUEST OF THE  
 4 DEPARTMENT OF LIVESTOCK

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LIVESTOCK  
 7 MARKETING LAWS RELATIVE TO LICENSE AND BOND REQUIREMENTS OF  
 8 BROKERS AND DEALERS, PAYMENTS FOR LIVESTOCK, AND  
 9 JURISDICTION OF JUSTICES' COURTS OVER VIOLATIONS OF  
 10 LIVESTOCK MARKETING LAWS; AMENDING SECTIONS 3-10-303,  
 11 30-2-401, 81-8-213, 81-8-216, 81-8-231, 81-8-233 THROUGH  
 12 81-8-236, 81-8-271 THROUGH 81-8-274, AND 81-8-276 THROUGH  
 13 81-8-279, MCA."

14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 3-10-303, MCA, is amended to read:  
 17 "3-10-303. Criminal jurisdiction. The justices' courts  
 18 have jurisdiction of public offenses committed within the  
 19 respective counties in which such courts are established as  
 20 follows:

21 (1) jurisdiction of all misdemeanors punishable by a  
 22 fine not exceeding \$500 or imprisonment not exceeding 6  
 23 months or both such fine and imprisonment;

24 (2) jurisdiction of all violations of fish and game  
 25 statutes punishable by a fine of not more than \$1,000 or

1 imprisonment for not more than 6 months, or both;  
 2 (3) concurrent jurisdiction with district courts of  
 3 all misdemeanors punishable \*by a fine only not exceeding  
 4 \$1,500;  
 5 (4) jurisdiction to act as examining and committing  
 6 courts and for such purpose to conduct preliminary hearings;  
 7 and  
 8 (5) jurisdiction of all violations of Title 61,  
 9 chapter 10; and  
 10 (6) all misdemeanor violations of Title 81, chapter 8,  
 11 part 2."

12 Section 2. ~~Section 30-2-401, MCA, is amended to read:~~  
 13 ~~"30-2-401. Passing of title-----reservation--for~~  
 14 ~~security-----limited--application--of--this--section.---Each~~  
 15 ~~provision--of--this--chapter--with--regard--to--the--rights,~~  
 16 ~~obligations--and--remedies--of--the--seller,---the--buyer,~~  
 17 ~~purchasers--or--other--third-parties--applies--irrespective--of~~  
 18 ~~title--to--the--goods--except--where--the--provision--refers--to--such~~  
 19 ~~title.---Insofar--as--situations--are--not--covered--by--the--other~~  
 20 ~~provisions--of--this--chapter--and--matters--concerning--title~~  
 21 ~~become--material--the--following--rules--apply:~~

22 (1) ~~Title to goods cannot pass under a contract for~~  
 23 ~~sale---prior---to---their--identification--to--the--contract~~  
 24 ~~(30-2-501), and unless otherwise explicitly agreed the buyer~~  
 25 ~~acquires by their identification a special property as~~



1 ~~limited by this code. Any retention or reservation by the~~  
 2 ~~seller of the title (property) in goods shipped or delivered~~  
 3 ~~to the buyer is limited in effect to a reservation of a~~  
 4 ~~security interest. Subject to these provisions and to the~~  
 5 ~~provisions of the Chapter on Secured Transactions (Chapter~~  
 6 ~~9), title to goods passes from the seller to the buyer in~~  
 7 ~~any manner and on any conditions explicitly agreed on by the~~  
 8 ~~parties.~~

9 (2) ~~Unless otherwise explicitly agreed title passes to~~  
 10 ~~the buyer at the time and place at which the seller~~  
 11 ~~completes his performance with reference to the physical~~  
 12 ~~delivery of the goods, despite any reservation of a security~~  
 13 ~~interest and even though a document of title is to be~~  
 14 ~~delivered at a different time or place, and in particular~~  
 15 ~~and despite any reservation of a security interest by the~~  
 16 ~~bill of lading:~~

17 (a) ~~if the contract requires or authorizes the seller~~  
 18 ~~to send the goods to the buyer but does not require him to~~  
 19 ~~deliver them at destination, title passes to the buyer at~~  
 20 ~~the time and place of shipment, but~~

21 (b) ~~if the contract requires delivery at destination,~~  
 22 ~~title passes on tender there.~~

23 (3) ~~Unless otherwise explicitly agreed where delivery~~  
 24 ~~is to be made without moving the goods,~~

25 (a) ~~if the seller is to deliver a document of title,~~

1 title passes at the time when and the place where he  
 2 delivers such documents, or

3 (b) ~~if the goods are at the time of contracting~~  
 4 ~~already identified and no documents are to be delivered,~~  
 5 ~~title passes at the time and place of contracting.~~

6 (4) ~~For transactions involving interstate shipment of~~  
 7 ~~cattle the seller may issue a regular title or bill of sale,~~  
 8 ~~or only give a conditional transfer of title or bill of~~  
 9 ~~sale. The conditional transfer of title or bill of sale is~~  
 10 ~~fully validated and the title passes when the following~~  
 11 ~~conditions are met:~~

12 (a) ~~the bank on which the buyer's warrant, check, or~~  
 13 ~~draft was drawn, notifies the seller, or his designated~~  
 14 ~~bank, that the instrument of payment has cleared the bank~~  
 15 ~~for payment, and~~

16 (b) ~~a copy of the notification from the buyer's bank~~  
 17 ~~is attached to the conditional transfer of title or bill of~~  
 18 ~~sale.~~

19 (5) ~~A rejection or other refusal by the buyer to~~  
 20 ~~receive or retain the goods, whether or not justified, or a~~  
 21 ~~justified revocation of acceptance reverts title to the~~  
 22 ~~goods in the seller. Such reversion occurs by operation of~~  
 23 ~~law and is not a "sale".~~

24 Section 2. Section 81-8-213, MCA, is amended to read:  
 25 "81-8-213. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Board" means the board of livestock provided for  
3 in 2-15-3102.

4 (2) "Department" means the department of livestock  
5 provided for in Title 2, chapter 15, part 31.

6 (3) "Livestock" means cattle, calves, hogs, pigs,  
7 horses, mules, sheep, lambs, and goats.

8 ~~{4}--"livestock broker" means a business, not including~~  
9 ~~facilities, conducted for the receiving, handling, and care~~  
10 ~~of livestock and involving livestock purchased by it for its~~  
11 ~~own account for resale, for the account of any principal for~~  
12 ~~delivery to him, or for slaughter; it does not include a~~  
13 ~~farmer or rancher who buys or sells livestock in the~~  
14 ~~ordinary course of his farming or ranching operation.~~

15 {5}{4} "Livestock dealer" means a person engaged in  
16 the business conducted in facilities utilized for the  
17 receiving, handling, and care of livestock purchased by it  
18 for its own account for resale, for the account of any  
19 principal for delivery to him, or for slaughter of buying or  
20 selling livestock. It does not include a farmer or rancher  
21 who buys or sells livestock in the ordinary course of his  
22 farming or ranching operation.

23 {6}{5} "Livestock market" means a place where a person  
24 for compensation assembles livestock for sale, except:

25 (a) a place used solely for a dispersal sale of the

1 livestock of a farmer, dairyman, livestock breeder, or  
2 feeder who is discontinuing business and at which no other  
3 livestock is sold or offered for sale;

4 (b) a farm, ranch, or place where livestock either  
5 raised or kept thereon for the grazing season or for  
6 fattening is sold and to which no other livestock is brought  
7 for sale or to be offered for sale;

8 (c) the premises of a butcher, packer, or processor  
9 who receives animals exclusively for immediate slaughter;

10 (d) the premises of a person engaged in the raising of  
11 livestock for breeding purposes only, who limits his sale to  
12 livestock of his own production;

13 (e) a place where a breeder or an association of  
14 breeders of livestock of any class assembles and offers for  
15 sale and sells under his or its own management any  
16 livestock, when the breeder or association of breeders  
17 assumes all responsibility for the sale and the title of  
18 livestock sold.

19 {7}{6} "Person" means an individual, firm,  
20 association, partnership, or corporation.

21 {8}{7} "Test station sale" means the sale of livestock  
22 from a place where livestock is taken to measure rates of  
23 gain under uniform feeding conditions when that place is not  
24 owned by the owner of the livestock."

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 3 81-8-263 or rules adopted by the department under 81-8-231  
 4 is guilty of a misdemeanor and upon conviction shall be  
 5 fined not less than \$100 or more than \$600, imprisoned in  
 6 the county jail not less than 30 days or more than 6 months,  
 7 or both. A person convicted of a subsequent violation of  
 8 81-8-214, 81-8-215, and 81-8-251 through 81-8-263 or rules  
 9 adopted under ~~81-8-231~~ TO IMPLEMENT THOSE SECTIONS shall be  
 10 fined not less than \$200 or more than \$1,000, imprisoned in  
 11 the county jail for not less than 3 months or more than 6  
 12 months, or both, and the department may cancel his  
 13 certificate.

14 (2) Of all fines assessed and collected under this  
 15 section, 50% shall be paid into the state treasury and  
 16 credited to the special revenue fund for the use of the  
 17 department and 50% shall be paid into the general revenue  
 18 fund of the county in which the conviction occurred."

19 Section 4. Section 81-8-231, MCA, is amended to read:

20 "81-8-231. Duties of department. The department shall:

21 (1) supervise and regulate livestock markets,  
 22 ~~livestock-brokers,~~ and livestock dealers in this state;

23 (2) regulate the properties, facilities, operations,  
 24 services, and practices of all livestock markets,~~livestock~~  
 25 ~~brokers,~~ and livestock dealers;

1 (3) supervise and regulate livestock markets in all  
 2 matters affecting the relationship between the livestock  
 3 market and owners of livestock and between the livestock  
 4 market and purchasers of livestock;

5 (4) prescribe by general order or otherwise rules in  
 6 conformity with this part applicable to all livestock  
 7 markets,~~livestock-brokers,~~ or livestock dealers and not in  
 8 conflict with the laws of the United States or regulations  
 9 of the United States department of agriculture or other  
 10 federal agencies;

11 (5) enforce this part and adopt rules necessary to  
 12 carry out this part."

13 Section 5. Section 81-8-233, MCA, is amended to read:

14 "81-8-233. Title warranty of livestock sold. A  
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 18 owner of all livestock sold for the net proceeds for such  
 19 livestock whether or not the rightful owner was known to the  
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 24 shall maintain a financial condition of total assets in  
 25 excess of total liability, including total current assets in



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2 (2) Payment for livestock purchased shall be made upon  
3 completion of the sales transaction. Payment in all  
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5 draft, as defined in 30-3-104; by electronic funds transfer,  
6 as defined in 32-6-103; or by any other bankable  
7 instrument."

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10 person found, after notice and hearing, to be in violation  
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12 department of not less than \$100 or more than \$5,000, have  
13 his license or certificate suspended or revoked, or both.

14 (2) A person found, after notice and hearing, to have  
15 committed a subsequent violation of 81-8-234 after the  
16 department has assessed a penalty pursuant to subsection (1)  
17 shall be fined not less than \$250 or more than \$5,000 and  
18 have his license or certificate suspended or revoked.

19 (3) ~~The-maker-of-any-bankable-instrument-who-knowingly~~  
20 ~~and-without-right-fails-to-honor-or-causes-another-to~~  
21 ~~dishonor-that-instrument-once-it-is-issued-or-delivered-in~~  
22 ~~payment-for-a-livestock-purchase-is-guilty-of-a-felony-and~~  
23 ~~on-conviction-may-be-imprisoned-for-not-more-than-5-years-or~~  
24 ~~fined-not-more-than-\$10,000-or-both.~~ A person, whether or  
25 not licensed under this part, who issues or delivers a check

1 or other order upon a real or fictitious depository in  
2 payment for a livestock purchase knowing that it will not be  
3 paid by the depository is guilty of a felony and on  
4 conviction may be imprisoned for not more than 5 years or  
5 fined not more than \$10,000, or both. If the person has an  
6 account with the depository, failure to make good the check  
7 or other order within 5 days after written notice of  
8 nonpayment has been received by the issuer is prima facie  
9 evidence that he knew it would not be paid by the  
10 depository."

11 Section 8. Section 81-8-236, MCA, is amended to read:

12 "81-8-236. Injunctive remedy. The operation of a  
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14 person not licensed or certified and bonded as required by  
15 this part may be enjoined by the district court on petition  
16 from the department upon a showing that a person is engaged  
17 in the business of a livestock market, ~~livestock broker,~~ or  
18 livestock dealer as defined in 81-8-213 without the license  
19 or certificate and bond required by this part. The court  
20 shall enjoin the person from further activities as a  
21 livestock market operator, ~~livestock broker,~~ or livestock  
22 dealer until the license or certificate and bond have been  
23 properly obtained. It is not necessary to show that any  
24 individual has been injured by the actions complained of in  
25 order to obtain the issuance of the injunction. The

1 injunctive relief provided by this section is an additional  
2 remedy to the criminal penalties provided in this part."

3 Section 9. Section ~~81-8-271~~, MCA, is amended to read:

4 "~~81-8-271~~. License to operate as livestock broker--or  
5 dealer -- application. (1) No person may operate as a  
6 ~~livestock-broker-or~~ livestock dealer without a license. A  
7 person who wishes to operate as a ~~livestock-broker-or~~  
8 livestock dealer shall file with the department an  
9 application for a license to transact such business on a  
10 form prescribed by the department stating the type of  
11 license sought and the following information:

12 (a) the names of the persons applying for the license  
13 together with their permanent addresses and, if the  
14 applicant is a firm, association, partnership, or  
15 corporation, the names of its directors, officers, and  
16 members, if applicable;

17 (b) the post-office address and principal place of  
18 business of the applicant;

19 (c) if the applicant is a foreign corporation, its  
20 principal place of business outside the state, the name of  
21 the state in which it is incorporated, and a statement  
22 showing that it has complied with the laws of this state  
23 relating to foreign corporations and its right to do  
24 business in this state;

25 (d) a detailed financial statement setting forth all

1 assets and liabilities of the applicant pertinent to the  
2 business for which the license is sought,

3 ~~(e) if the applicant is a livestock dealer, a~~  
4 ~~description of the facilities at which he proposes to~~  
5 ~~operate.~~

6 (2) An application fee of \$50 must be submitted with  
7 each application for a ~~livestock-broker's-or~~ livestock  
8 dealer's license. The fee shall be the first ~~annual~~ fee if  
9 the license is granted.

10 (3) A person who purports to act as an agent for a  
11 livestock dealer in the purchase or sale of livestock may  
12 not engage in such business activities without a livestock  
13 dealer's license."

14 Section 10. Section ~~81-8-272~~, MCA, is amended to read:

15 "~~81-8-272~~. Issuance of livestock dealer's license.  
16 When an applicant has paid the fee and met the requirements  
17 of ~~81-8-271~~, the department shall issue to the applicant a  
18 license which entitles the licensee to ~~engage-in-the~~  
19 business-specified-in-his-application operate as a livestock  
20 dealer for a period of 1 year unless the license is  
21 suspended or revoked under this part."

22 Section 11. Section ~~81-8-273~~, MCA, is amended to read:

23 "~~81-8-273~~. Refusal to issue or renew license. (1) The  
24 department shall refuse to issue or renew a license if the  
25 applicant:

1       †1) (a) has failed to maintain a financial condition of  
2 total assets in excess of total liabilities, including total  
3 current assets in excess of total current liabilities;

4       †2) (b) is in violation of any of the provisions of  
5 this part;

6       †3) (c) has knowingly made false or misleading  
7 statements as to the health or physical condition of  
8 livestock or practiced fraud or misrepresentation in  
9 connection with the buying or receiving of livestock or the  
10 selling, exchanging, soliciting, or negotiating of the sale  
11 of livestock or the weighing of the same;

12       †4) (d) has failed to keep records of all purchases and  
13 sales or refused to grant inspection of such records by  
14 authorized agents of the department;

15       †5) (e) is in violation of the rules adopted by the  
16 department;

17       †6) (f) has failed to comply with a lawful order of the  
18 department;

19       †7) (g) has not filed a surety bond in the form and  
20 amount required under 81-8-277;

21       †8) (h) has been found by the department to have failed  
22 to pay, without reasonable cause, obligations incurred in  
23 connection with livestock transactions;

24       †9) (i) has been suspended by the order of the  
25 secretary of agriculture of the United States department of

1 agriculture under provisions of the Packers and Stockyards  
2 Act, 1921, as amended, 7 U.S.C. 181, et seq.; or

3       †10) (j) employs a person required to be licensed whose  
4 license cannot be renewed or whose license is under  
5 suspension or revocation by the department or the United  
6 States department of agriculture.

7       †11) (2) An applicant refused a license or license renewal  
8 may not apply again for 1 year following refusal unless the  
9 department determines that the applicant has met the  
10 requirements of this part."

11       Section 12. Section 81-8-274, MCA, is amended to read:

12       "81-8-274. Suspension or revocation of license. (1)  
13 Whenever the department finds that any ~~livestock--broker--or~~  
14 ~~livestock dealer~~ has violated the provisions of this part or  
15 rules adopted under this part, the department may, by order,  
16 suspend the license of such person for a period not to  
17 exceed 1 year, and if the violation is repeated, the  
18 department may, by order, after hearing, permanently revoke  
19 the license of such person.

20       (2) Before any license issued under this part may be  
21 suspended or revoked, the licensee shall be furnished with a  
22 copy of the complaint made against him and a hearing shall  
23 be had before the department to determine whether the  
24 license should be suspended or revoked. The licensee shall  
25 be given notice of the time and the place of such hearing.

1 The notice may be served by registered or certified mail at  
 2 the post-office address listed in the application. The  
 3 hearing must be held not less than 10 days or more than 30  
 4 days after the mailing of the notice. At the time and place  
 5 set for the hearing, the department shall take and receive  
 6 evidence, under oath, with respect to the complaint, and  
 7 upon such evidence received, shall promptly dismiss the  
 8 proceedings or revoke or suspend the license."

9 Section 13. Section 81-8-276, MCA, is amended to read:

10 "81-8-276. Annual fee and financial statement.

11 Livestock ~~brokers and~~ livestock dealers shall pay an annual  
 12 fee established by the department and supply a current  
 13 financial statement. The fee is payable on May 1 to the  
 14 state treasurer to the credit of the department."

15 Section 14. Section 81-8-277, MCA, is amended to read:

16 "81-8-277. Bond requirement. (1) A ~~livestock broker or~~  
 17 livestock dealer applying for a license under this part  
 18 shall maintain a bond in the form and amount set forth in  
 19 this section ~~or if he is registered and bonded under the~~  
 20 ~~Packers and Stockyards Act, 1921, 7 U.S.C. 181, et seq, he~~  
 21 ~~shall file a statement with the department showing he is~~  
 22 ~~maintaining a bond or its equivalent under the Packers and~~  
 23 ~~Stockyards Act.~~ The department may require evidence of the  
 24 bond to be filed with it.

25 (2) The amount of the bond shall be set by the

1 department but may not be less than \$5,000. The bond shall  
 2 contain the following conditions:

3 "This bond is conditioned on the principal paying to  
 4 the rightful recipient the purchase price of all livestock  
 5 he purchases for himself or others and on the principal  
 6 safely keeping and properly disbursing all funds received on  
 7 behalf of others."

8 (3) Each bond shall contain provisions that a person  
 9 damaged by failure of the principal to comply with the  
 10 condition clause of the bond may bring an action to recover  
 11 on the bond. At least 30 days' notice in writing shall be  
 12 given to the department by any party terminating the bond."

13 Section 15. Section 81-8-278, MCA, is amended to read:

14 "81-8-278. Records. A ~~livestock broker or~~ livestock  
 15 dealer shall maintain records that disclose all purchases  
 16 and sales of livestock. A ~~livestock broker or~~ livestock  
 17 dealer shall, at all reasonable times, give the department  
 18 access to and let the department copy any of the records  
 19 relating to his business."

20 Section 16. Section 81-8-279, MCA, is amended to read:

21 "81-8-279. Penalties. (1) A person who violates any  
 22 provision of 81-8-271 through 81-8-273 and 81-8-276 through  
 23 81-8-278 or rules adopted by the department ~~under 81-8-231~~  
 24 TO IMPLEMENT THOSE SECTIONS is guilty of a misdemeanor and  
 25 upon conviction shall be fined not less than \$250 or more

1 than \$1,000 or imprisoned for not more than 6 months, or  
2 both.

3 (2) Of all fines assessed and collected under this  
4 section, 50% shall be paid into the state treasury and  
5 credited to the special revenue fund for the use of the  
6 department and 50% shall be paid into the general revenue  
7 fund of the county in which the conviction occurred."

8 NEW SECTION. Section 17. Extension of authority. Any  
9 existing authority of the department of livestock to make  
10 rules on the subject of the provisions of this act is  
11 extended to the provisions of this act.

-End-

HOUSE BILL NO. 459  
INTRODUCED BY SWITZER  
BY REQUEST OF THE  
DEPARTMENT OF LIVESTOCK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LIVESTOCK  
MARKETING LAWS RELATIVE TO LICENSE AND BOND REQUIREMENTS OF  
BROKERS AND DEALERS, PAYMENTS FOR LIVESTOCK, AND  
JURISDICTION OF JUSTICES' COURTS OVER VIOLATIONS OF  
LIVESTOCK MARKETING LAWS; AMENDING SECTIONS 3-10-303,  
30-2-401, 81-8-213, 81-8-216, 81-8-231, 81-8-233 THROUGH  
81-8-236, 81-8-271 THROUGH 81-8-274, AND 81-8-276 THROUGH  
81-8-279, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
Section 1. Section 3-10-303, MCA, is amended to read:  
"3-10-303. Criminal jurisdiction. The justices' courts  
have jurisdiction of public offenses committed within the  
respective counties in which such courts are established as  
follows:

- (1) jurisdiction of all misdemeanors punishable by a  
fine not exceeding \$500 or imprisonment not exceeding 6  
months or both such fine and imprisonment;
- (2) jurisdiction of all violations of fish and game  
statutes punishable by a fine of not more than \$1,000 or

- imprisonment for not more than 6 months, or both;
  - (3) concurrent jurisdiction with district courts of  
all misdemeanors punishable by a fine only not exceeding  
\$1,500;
  - (4) jurisdiction to act as examining and committing  
courts and for such purpose to conduct preliminary hearings;  
and
  - (5) jurisdiction of all violations of Title 61,  
chapter 10; and
  - (6) all misdemeanor violations of Title 81, chapter 8,  
part 2.
- ~~Section 2. Section 30-2-401, MCA, is amended to read:  
"30-2-401. Passing of title reservation for  
security limited application of this section. Each  
provision of this chapter with regard to the rights,  
obligations and remedies of the seller, the buyer,  
purchasers or other third parties applies irrespective of  
title to the goods except where the provision refers to such  
title. Insofar as situations are not covered by the other  
provisions of this chapter and matters concerning title  
become material the following rules apply:  
(1) Title to goods cannot pass under a contract for  
sale prior to their identification to the contract  
(30-2-501) and unless otherwise explicitly agreed the buyer  
acquires by their identification a special property as~~



1 limited--by--this--code. Any retention or reservation by the  
 2 seller of the title (property) in goods shipped or delivered  
 3 to the buyer is limited in effect to a reservation of a  
 4 security interest. Subject to these provisions and to the  
 5 provisions of the Chapter on Secured Transactions (Chapter  
 6 9), title to goods passes from the seller to the buyer in  
 7 any manner and on any conditions explicitly agreed on by the  
 8 parties:

9 (2) Unless otherwise explicitly agreed, title passes to  
 10 the buyer at the time and place at which the seller  
 11 completes his performance with reference to the physical  
 12 delivery of the goods, despite any reservation of a security  
 13 interest and even though a document of title is to be  
 14 delivered at a different time or place, and in particular  
 15 and despite any reservation of a security interest by the  
 16 bill of lading:

17 (a) if the contract requires or authorizes the seller  
 18 to send the goods to the buyer but does not require him to  
 19 deliver them at destination, title passes to the buyer at  
 20 the time and place of shipment, but

21 (b) if the contract requires delivery at destination,  
 22 title passes on tender there.

23 (3) Unless otherwise explicitly agreed where delivery  
 24 is to be made without moving the goods,

25 (a) if the seller is to deliver a document of title,

1 title passes at the time when and the place where he  
 2 delivers such documents, or

3 (b) if the goods are at the time of contracting  
 4 already identified and no documents are to be delivered,  
 5 title passes at the time and place of contracting;

6 (4) For transactions involving interstate shipment of  
 7 cattle the seller may issue a regular title or bill of sale,  
 8 or only give a conditional transfer of title or bill of  
 9 sale. The conditional transfer of title or bill of sale is  
 10 fully validated and the title passes when the following  
 11 conditions are met:

12 (a) the bank on which the buyer's warrant, check, or  
 13 draft was drawn, notifies the seller, or his designated  
 14 bank, that the instrument of payment has cleared the bank  
 15 for payment, and

16 (b) a copy of the notification from the buyer's bank  
 17 is attached to the conditional transfer of title or bill of  
 18 sale.

19 (5) A rejection or other refusal by the buyer to  
 20 receive or retain the goods, whether or not justified, or a  
 21 justified revocation of acceptance, reverts title to the  
 22 goods in the seller. Such reversion occurs by operation of  
 23 law and is not a "sale."

24 Section 2. Section 81-8-213, MCA, is amended to read:  
 25 "81-8-213. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Board" means the board of livestock provided for  
3 in 2-15-3102.

4 (2) "Department" means the department of livestock  
5 provided for in Title 2, chapter 15, part 31.

6 (3) "Livestock" means cattle, calves, hogs, pigs,  
7 horses, mules, sheep, lambs, and goats.

8 ~~(4) "Livestock broker" means a business, not including~~  
9 ~~facilities, conducted for the receiving, handling, and care~~  
10 ~~of livestock and involving livestock purchased by it for its~~  
11 ~~own account for resale, for the account of any principal for~~  
12 ~~delivery to him, or for slaughter. It does not include a~~  
13 ~~farmer or rancher who buys or sells livestock in the~~  
14 ~~ordinary course of his farming or ranching operation.~~

15 ~~(4)~~ (4) "Livestock dealer" means a person engaged in  
16 the business conducted in facilities utilized for the  
17 receiving, handling, and care of livestock purchased by it  
18 for its own account for resale, for the account of any  
19 principal for delivery to him, or for slaughter of buying or  
20 selling livestock. It does not include a farmer or rancher  
21 who buys or sells livestock in the ordinary course of his  
22 farming or ranching operation.

23 ~~(5)~~ (5) "Livestock market" means a place where a person  
24 for compensation assembles livestock for sale, except:

25 (a) a place used solely for a dispersal sale of the

1 livestock of a farmer, dairyman, livestock breeder, or  
2 feeder who is discontinuing business and at which no other  
3 livestock is sold or offered for sale;

4 (b) a farm, ranch, or place where livestock either  
5 raised or kept thereon for the grazing season or for  
6 fattening is sold and to which no other livestock is brought  
7 for sale or to be offered for sale;

8 (c) the premises of a butcher, packer, or processor  
9 who receives animals exclusively for immediate slaughter;

10 (d) the premises of a person engaged in the raising of  
11 livestock for breeding purposes only, who limits his sale to  
12 livestock of his own production;

13 (e) a place where a breeder or an association of  
14 breeders of livestock of any class assembles and offers for  
15 sale and sells under his or its own management any  
16 livestock, when the breeder or association of breeders  
17 assumes all responsibility for the sale and the title of  
18 livestock sold.

19 ~~(6)~~ (6) "Person" means an individual, firm,  
20 association, partnership, or corporation.

21 ~~(7)~~ (7) "Test station sale" means the sale of livestock  
22 from a place where livestock is taken to measure rates of  
23 gain under uniform feeding conditions when that place is not  
24 owned by the owner of the livestock."

25 Section 3. Section 81-8-216, MCA, is amended to read:



1 "81-8-216. Penalties. (1) A person who violates any  
 2 provision of 81-8-214, 81-8-215, and 81-8-251 through  
 3 81-8-263 or rules adopted by the department under 81-8-231  
 4 is guilty of a misdemeanor and upon conviction shall be  
 5 fined not less than \$100 or more than \$600, imprisoned in  
 6 the county jail not less than 30 days or more than 6 months,  
 7 or both. A person convicted of a subsequent violation of  
 8 81-8-214, 81-8-215, and 81-8-251 through 81-8-263 or rules  
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 10 fined not less than \$200 or more than \$1,000, imprisoned in  
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 12 months, or both, and the department may cancel his  
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 24 services, and practices of all livestock markets,~~livestock~~  
 25 ~~brokers~~, and livestock dealers;

1 (3) supervise and regulate livestock markets in all  
 2 matters affecting the relationship between the livestock  
 3 market and owners of livestock and between the livestock  
 4 market and purchasers of livestock;

5 (4) prescribe by general order or otherwise rules in  
 6 conformity with this part applicable to all livestock  
 7 markets,~~livestock-brokers~~, or livestock dealers and not in  
 8 conflict with the laws of the United States or regulations  
 9 of the United States department of agriculture or other  
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 18 owner of all livestock sold for the net proceeds for such  
 19 livestock whether or not the rightful owner was known to the  
 20 market at the time of the sale."

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2 (2) Payment for livestock purchased shall be made upon  
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4 livestock transactions shall be made by cash, check, or  
5 draft, as defined in 30-3-104; by electronic funds transfer,  
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7 instrument."

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12 department of not less than \$100 or more than \$5,000, have  
13 his license or certificate suspended or revoked, or both.

14 (2) A person found, after notice and hearing, to have  
15 committed a subsequent violation of 81-8-234 after the  
16 department has assessed a penalty pursuant to subsection (1)  
17 shall be fined not less than \$250 or more than \$5,000 and  
18 have his license or certificate suspended or revoked.

19 ~~(3) The-maker-of-any-bankable-instrument-who-knowingly~~  
20 ~~and--without--right--fails--to--honor--or--causes-another-to~~  
21 ~~dishonor-that-instrument-once-it-is-issued-or--delivered--in~~  
22 ~~payment--for--a-livestock-purchase-is-guilty-of-a-felony-and~~  
23 ~~on-conviction-may-be-imprisoned-for-not-more-than-5-years-or~~  
24 ~~fined-not-more-than-\$10,000-or-both. A person, whether or~~  
25 ~~not licensed under this part, who issues or delivers a check~~

1 or other order upon a real or fictitious depository in  
2 payment for a livestock purchase knowing that it will not be  
3 paid by the depository is guilty of a felony and on  
4 conviction may be imprisoned for not more than 5 years or  
5 fined not more than \$10,000, or both. If the person has an  
6 account with the depository, failure to make good the check  
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9 evidence that he knew it would not be paid by the  
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1 injunctive relief provided by this section is an additional  
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3 Section 9. Section 81-8-271, MCA, is amended to read:

4 "81-8-271. License to operate as livestock broker--or  
 5 dealer -- application. (1) No person may operate as a  
 6 ~~livestock-broker-or~~ livestock dealer without a license. A  
 7 person who wishes to operate as a ~~livestock-broker-or~~  
 8 livestock dealer shall file with the department an  
 9 application for a license to transact such business on a  
 10 form prescribed by the department stating the type of  
 11 license sought and the following information:

12 (a) the names of the persons applying for the license  
 13 together with their permanent addresses and, if the  
 14 applicant is a firm, association, partnership, or  
 15 corporation, the names of its directors, officers, and  
 16 members, if applicable;

17 (b) the post-office address and principal place of  
 18 business of the applicant;

19 (c) if the applicant is a foreign corporation, its  
 20 principal place of business outside the state, the name of  
 21 the state in which it is incorporated, and a statement  
 22 showing that it has complied with the laws of this state  
 23 relating to foreign corporations and its right to do  
 24 business in this state;

25 (d) a detailed financial statement setting forth all

1 assets and liabilities of the applicant pertinent to the  
 2 business for which the license is sought;

3 ~~(e) if the applicant is a livestock dealer, a~~  
 4 ~~description of the facilities at which he proposes to~~  
 5 ~~operate.~~

6 (2) An application fee of \$50 must be submitted with  
 7 each application for a ~~livestock-broker's-or~~ livestock  
 8 dealer's license. The fee shall be the first annual fee if  
 9 the license is granted.

10 (3) A person who purports to act as an agent for a  
 11 livestock dealer in the purchase or sale of livestock may  
 12 not engage in such business activities without a livestock  
 13 dealer's license."

14 Section 10. Section 81-8-272, MCA, is amended to read:

15 "81-8-272. Issuance of livestock dealer's license.  
 16 When an applicant has paid the fee and met the requirements  
 17 of 81-8-271, the department shall issue to the applicant a  
 18 license which entitles the licensee to ~~engage--in--the~~  
 19 ~~business-specified-in-his-application~~ operate as a livestock  
 20 dealer for a period of 1 year unless the license is  
 21 suspended or revoked under this part."

22 Section 11. Section 81-8-273, MCA, is amended to read:

23 "81-8-273. Refusal to issue or renew license. (1) The  
 24 department shall refuse to issue or renew a license if the  
 25 applicant:

1       †1†(a) has failed to maintain a financial condition of  
 2 total assets in excess of total liabilities, including total  
 3 current assets in excess of total current liabilities;

4       †2†(b) is in violation of any of the provisions of  
 5 this part;

6       †3†(c) has knowingly made false or misleading  
 7 statements as to the health or physical condition of  
 8 livestock or practiced fraud or misrepresentation in  
 9 connection with the buying or receiving of livestock or the  
 10 selling, exchanging, soliciting, or negotiating of the sale  
 11 of livestock or the weighing of the same;

12       †4†(d) has failed to keep records of all purchases and  
 13 sales or refused to grant inspection of such records by  
 14 authorized agents of the department;

15       †5†(e) is in violation of the rules adopted by the  
 16 department;

17       †6†(f) has failed to comply with a lawful order of the  
 18 department;

19       †7†(g) has not filed a surety bond in the form and  
 20 amount required under 81-8-277;

21       †8†(h) has been found by the department to have failed  
 22 to pay, without reasonable cause, obligations incurred in  
 23 connection with livestock transactions;

24       †9†(i) has been suspended by the order of the  
 25 secretary of agriculture of the United States department of

1 agriculture under provisions of the Packers and Stockyards  
 2 Act, 1921, as amended, 7 U.S.C. 181, et seq.; or

3       (j) employs a person required to be licensed whose  
 4 license cannot be renewed or whose license is under  
 5 suspension or revocation by the department or the United  
 6 States department of agriculture.

7       (2) An applicant refused a license or license renewal  
 8 may not apply again for 1 year following refusal unless the  
 9 department determines that the applicant has met the  
 10 requirements of this part."

11       Section 12. Section 81-8-274, MCA, is amended to read:  
 12       "81-8-274. Suspension or revocation of license. (1)  
 13 Whenever the department finds that any livestock--broker--or  
 14 livestock dealer has violated the provisions of this part or  
 15 rules adopted under this part, the department may, by order,  
 16 suspend the license of such person for a period not to  
 17 exceed 1 year, and if the violation is repeated, the  
 18 department may, by order, after hearing, permanently revoke  
 19 the license of such person.

20       (2) Before any license issued under this part may be  
 21 suspended or revoked, the licensee shall be furnished with a  
 22 copy of the complaint made against him and a hearing shall  
 23 be had before the department to determine whether the  
 24 license should be suspended or revoked. The licensee shall  
 25 be given notice of the time and the place of such hearing.

1 The notice may be served by registered or certified mail at  
 2 the post-office address listed in the application. The  
 3 hearing must be held not less than 10 days or more than 30  
 4 days after the mailing of the notice. At the time and place  
 5 set for the hearing, the department shall take and receive  
 6 evidence, under oath, with respect to the complaint, and  
 7 upon such evidence received, shall promptly dismiss the  
 8 proceedings or revoke or suspend the license."

9 Section 13. Section 81-8-276, MCA, is amended to read:  
 10 "81-8-276. Annual fee and financial statement.  
 11 Livestock ~~brokers-and-livestock~~ dealers shall pay an annual  
 12 fee established by the department and supply a current  
 13 financial statement. The fee is payable on May 1 to the  
 14 state treasurer to the credit of the department."

15 Section 14. Section 81-8-277, MCA, is amended to read:  
 16 "81-8-277. Bond requirement. (1) A ~~livestock-broker-or~~  
 17 ~~livestock~~ dealer applying for a license under this part  
 18 shall maintain a bond in the form and amount set forth in  
 19 ~~this section-or-if-he-is-registered-and--bonded--under--the~~  
 20 ~~Packers--and-Stockyards-Act,-1921,-7-U.S.C.-1817-et-seq,-he~~  
 21 ~~shall-file-a-statement-with-the--department--showing--he--is~~  
 22 ~~maintaining--a--bond-or-its-equivalent-under-the-Packers-and~~  
 23 ~~Stockyards-Act.~~ The department may require evidence of the  
 24 bond to be filed with it.

25 (2) The amount of the bond shall be set by the

1 department but may not be less than \$5,000. The bond shall  
 2 contain the following conditions:

3 "This bond is conditioned on the principal paying to  
 4 the rightful recipient the purchase price of all livestock  
 5 he purchases for himself or others and on the principal  
 6 safely keeping and properly disbursing all funds received on  
 7 behalf of others."

8 (3) Each bond shall contain provisions that a person  
 9 damaged by failure of the principal to comply with the  
 10 condition clause of the bond may bring an action to recover  
 11 on the bond. At least 30 days' notice in writing shall be  
 12 given to the department by any party terminating the bond."

13 Section 15. Section 81-8-278, MCA, is amended to read:  
 14 "81-8-278. Records. A ~~livestock--broker-or~~ livestock  
 15 dealer shall maintain records that disclose all purchases  
 16 and sales of livestock. A ~~livestock-broker-or~~ livestock  
 17 dealer shall, at all reasonable times, give the department  
 18 access to and let the department copy any of the records  
 19 relating to his business."

20 Section 16. Section 81-8-279, MCA, is amended to read:  
 21 "81-8-279. Penalties. (1) A person who violates any  
 22 provision of 81-8-271 through 81-8-273 and 81-8-276 through  
 23 81-8-278 or rules adopted by the department ~~under--81-8-231~~  
 24 TO IMPLEMENT THOSE SECTIONS is guilty of a misdemeanor and  
 25 upon conviction shall be fined not less than \$250 or more

1 than \$1,000 or imprisoned for not more than 6 months, or  
2 both.

3 (2) Of all fines assessed and collected under this  
4 section, 50% shall be paid into the state treasury and  
5 credited to the special revenue fund for the use of the  
6 department and 50% shall be paid into the general revenue  
7 fund of the county in which the conviction occurred."

8 NEW SECTION. Section 17. Extension of authority. Any  
9 existing authority of the department of livestock to make  
10 rules on the subject of the provisions of this act is  
11 extended to the provisions of this act.

-End-