

SENATE BILL NO. 202

1/22 Introduced
1/23 Referred to Agriculture, Livestock, & Irrig.
1/30 Hearing
2/20 Tabled in Committee

1 *Senate* BILL NO. *202*
 2 INTRODUCED BY *Bangston, E. Smith, [unclear], Asay*
 3 *John P. [unclear] NATHE Conover [unclear]*

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN
 5 COMMERCIAL FEEDLOT OPERATORS FROM THE AGRICULTURAL
 6 WAREHOUSE, COMMODITY DEALER, AND GRAIN STANDARDS ACT AND
 7 EXEMPTING ALL SUCH OPERATORS FROM THE FILING OF A FINANCIAL
 8 STATEMENT; AMENDING SECTIONS 80-4-402 AND 80-4-601, MCA."

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

11 Section 1. Section 80-4-402, MCA, is amended to read:
 12 "80-4-402. Definitions. As used in parts 4 through 7
 13 of this chapter, the following definitions apply:

14 (1) "Agent" means any person who contracts for or
 15 solicits any agricultural commodities from a producer or
 16 warehouseman or negotiates the consignment or purchase of
 17 any agricultural commodity on behalf of any commodity
 18 dealer.

19 (2) "Agricultural commodity" means any grain, beans,
 20 safflower, sunflower seeds, tame mustards, rapeseed,
 21 flaxseed, leguminous seed, or other small seed, and other
 22 agricultural commodities designated by rule of the
 23 department.

24 (3) "Commodity dealer" means any person who engages in
 25 a business involving or, as part of his business,

1 participates in buying, exchanging, negotiating, or
 2 soliciting the sale, resale, exchange, or transfer of any
 3 agricultural commodity in the state of Montana. The term
 4 does not include:

5 (a) a person engaged solely in storing, shipping, or
 6 handling agricultural commodities for hire;

7 (b) a person who buys or handles less than ~~\$10,000~~
 8 \$30,000 worth of agricultural commodities in a licensing
 9 year;

10 (c) a person who is the producer of agricultural
 11 commodities that he actually plants, nurtures, and harvests;
 12 or

13 (d) a person whose trading in agricultural commodities
 14 is limited to trading in commodity futures on a recognized
 15 futures exchange.

16 (4) "Credit sale contract" means a contract for the
 17 sale of an agricultural commodity when the sale price is to
 18 be paid at a date after delivery of the agricultural
 19 commodity to the buyer and includes but is not limited to
 20 those contracts commonly referred to as deferred payment
 21 contracts, deferred pricing contracts, or price-later
 22 contracts.

23 (5) "Department" means the department of agriculture
 24 provided for in 2-15-3001.

25 (6) "Depositor" means any person who deposits an



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1 agricultural commodity in a warehouse for storage,
2 processing, handling, or shipment or who is the owner or
3 legal holder of an outstanding warehouse receipt or who is
4 lawfully entitled to possession of the agricultural
5 commodity.

6 (7) "Director" means the director of the department of
7 agriculture.

8 (8) "Grain" means all grains for which standards have
9 been established under the United States Grain Standards Act
10 (7 U.S.C. 71 through 87) and all other agricultural
11 commodities, such as mustard, oil seed crops, or other crops
12 which may be designated by rule of the department.

13 (9) "Grain Standards Act" means the United States
14 Grain Standards Act (7 U.S.C. 71 through 87) as that act
15 reads on July 1, 1983.

16 (10) "Inspector" means any person so designated by the
17 director to assist in the administration of parts 4 through
18 6 of this chapter. The term includes warehouse auditors or
19 examiners.

20 (11) "Official grain inspectors" means any official
21 personnel who perform or supervise the performance of
22 official inspection services and certify the results
23 thereof, including the grade of the grain.

24 (12) "Official grain samplers" or "samplers" means any
25 official personnel who perform or supervise the performance

1 of official sampling services and certify the results
2 thereof.

3 (13) "Official grain standards" means the standards of
4 quality and condition of grain that establish the grades
5 defined by the Grain Standards Act.

6 (14) "Official grain weighers" means any official
7 personnel who perform or supervise the performance of class
8 X or class Y weighing services and certify the results
9 thereof, including the weight of the grain.

10 (15) "Person" means any individual, firm, association,
11 corporation, partnership, or any other form of business
12 enterprise.

13 (16) "Producer" means the owner, tenant, or operator of
14 land in this state who has an interest in and receives all
15 or part of the proceeds from the sale of agricultural
16 commodities produced on that land.

17 (17) "Public warehouse" or "warehouse" means any
18 elevator, mill, warehouse, subterminal grain warehouse,
19 public warehouse, or other structure or facility in which,
20 for compensation, agricultural commodities are received for
21 storage, handling, processing, or shipment. The term
22 includes facilities which commingle commodities belonging to
23 different lots of agricultural commodities.

24 (18) "Receipt" means a warehouse receipt.

25 (19) "Scale weight ticket" means a load slip or other

1 evidence of delivery, other than a receipt, given to a
2 depositor by a warehouseman licensed under the provisions of
3 part 5 of this chapter upon initial delivery of the
4 agricultural commodity to the warehouse.

5 (20) "Station" means a warehouse located more than 3
6 miles from the central office of the warehouse.

7 (21) "Subterminal warehouse" means any warehouse at
8 which an intermediate function is performed in which
9 agricultural commodities are customarily received from
10 dealers or producers and where the commodities are
11 accumulated prior to shipment.

12 (22) "Terminal grain warehouse" means any warehouse
13 authorized by a grain exchange to receive or disburse grain
14 on consignment as presented by the rules and regulations of
15 a grain exchange.

16 (23) "Warehouseman" means a person operating or
17 controlling a public warehouse.

18 (24) "Warehouse receipt" means every receipt, whether
19 negotiable or nonnegotiable, issued under part 5 of this
20 chapter by a warehouseman, except scale weight tickets."

21 Section 2. Section 80-4-601, MCA, is amended to read:

22 "80-4-601. Commodity dealer license requirements --
23 financial responsibility. (1) A person may not engage in the
24 business of a commodity dealer in this state without first
25 having obtained a license issued by the department, except

1 that if a commercial feedlot operator buys or handles
2 agricultural commodities through a bonded broker of such
3 commodities, or purchases them entirely from producers by
4 contracts, or procures them through a combination of those
5 two methods, he need not obtain a license.

6 (2) An application for a license to engage in business
7 as a commodity dealer must be filed with the department and
8 must be on a form prescribed by the department.

9 (3) A license application must include the following,
10 except that a commercial feedlot operator need not include
11 the financial statement required by subsection (3)(g):

12 (a) the name of the applicant;

13 (b) the names of the officers and directors if the
14 applicant is a corporation;

15 (c) the names of the partners if the applicant is a
16 partnership;

17 (d) the location of the principal places of business;

18 (e) a sufficient and valid bond as specified in
19 80-4-604;

20 (f) the number and description of trucks or
21 tractor-trailer units owned or leased by the applicant that
22 will be used in the transportation of agricultural
23 commodities purchased pursuant to the provisions of this
24 part;

25 (g) a complete financial statement prepared by a

1 licensed accountant according to generally accepted
 2 accounting principles, setting forth the applicant's assets,
 3 liabilities, and net worth. The commodity dealer shall have
 4 and maintain current assets equal to or greater than current
 5 liabilities. Assets must be shown at original cost less
 6 depreciation. Upon written request filed with the
 7 department, the director may allow asset valuations in
 8 accordance with a competent appraisal.

9 (h) any other reasonable information the department
 10 finds necessary to carry out the provisions and purpose of
 11 this part.

12 (4) In order to receive and retain a commodity
 13 dealer's license, a commodity dealer shall have and maintain
 14 net assets of at least \$50,000 or maintain a bond in the
 15 amount of \$2,000 for each \$1,000 or fraction thereof of net
 16 assets deficiency. However, a minimum of \$10,000 net assets
 17 is required by a commodity dealer to qualify for a license.
 18 A bond submitted for purposes of this subsection is in
 19 addition to any bond otherwise required under this part.

20 (5) The department shall adopt rules relating to the
 21 form and time of filing of financial statements. The
 22 department may require additional information or
 23 verification regarding the financial resources of the
 24 applicant and the applicant's ability to pay producers for
 25 agricultural commodities purchased from them."

1 NEW SECTION. Section 3. Extension of authority. Any
 2 existing authority of the department of agriculture to make
 3 rules on the subject of the provisions of this act is
 4 extended to the provisions of this act.

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