

HOUSE BILL NO. 220

INTRODUCED BY DEMARS, SWYSGOOD, THOFT, HARPER

IN THE HOUSE

JANUARY 15, 1987           INTRODUCED AND REFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

JANUARY 21, 1987           COMMITTEE RECOMMEND BILL  
DO PASS.   REPORT ADOPTED.

                              STATEMENT OF INTENT ADOPTED.

JANUARY 22, 1987           PRINTING REPORT.

JANUARY 23, 1987           ON MOTION, TAKEN FROM SECOND READING  
AND REREFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

FEBRUARY 20, 1987           COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED.   REPORT ADOPTED.

FEBRUARY 21, 1987           PRINTING REPORT.

FEBRUARY 23, 1987           SECOND READING, DO PASS.

FEBRUARY 24, 1987           ENGROSSING REPORT.

                              THIRD READING, PASSED.  
                              AYES, 95; NOES, 0.

                              TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987            INTRODUCED AND REFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

MARCH 16, 1987           COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED.   REPORT  
ADOPTED.

MARCH 19, 1987           SECOND READING, CONCURRED IN.

MARCH 21, 1987

THIRD READING, CONCURRED IN.  
AYES, 41; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 25, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 26, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 HB BILL NO. 220  
 2 INTRODUCED BY D. Maw  
 3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE  
 6 DEPARTMENT OF AGRICULTURE TO DEFINE BY RULE THE NOXIOUS WEED  
 7 SEEDS THAT ARE PROHIBITED OR RESTRICTED IN THE SEED LABELING  
 8 LAW; AND AMENDING SECTIONS 80-5-101 AND 80-5-105, MCA."  
 9

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

11 Section 1. Section 80-5-101, MCA, is amended to read:  
 12 "80-5-101. Definitions. Terms used in this part and  
 13 not otherwise identified are hereby defined:

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

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

22 (3) Flower seeds include seeds of herbaceous plants  
 23 grown for their blooms, ornamental foliage, or other  
 24 ornamental parts and are commonly known and sold under the  
 25 name of flower seeds in this state.

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

5 (5) ~~{a}-The term-"weed-seeds"--includes~~ Noxious weed  
 6 seeds include the seeds or bulblets of ~~all~~ those plants  
 7 ~~generally-recognized-as-weeds-within-this-state-and-includes~~  
 8 ~~noxious-weed-seeds designated as prohibited noxious weed~~  
 9 ~~seeds or restricted noxious weed seeds by rules adopted by~~  
 10 the department.

11 ~~{b}-Noxious-weed-seeds-are--divided--into--two--groups~~  
 12 ~~defined-as-follows:~~

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

- 20 Canada-thistle {Cirsium-arvense}
- 21 leafy-spurge {Euphorbia-esula}
- 22 hoary-eross {Cardaria-draba}
- 23 quackgrass {Agropyron-repens}
- 24 Russian-knapweed {Centaurea-repens}
- 25 perennial-sowthistle {Sonchus-arvensis}

1	field-bindweed	{Convolvulus-arvensis}
2	dalmatian-toadflax	{Binaria-dalmatica}
3	halogeton	{Halogeton-glomeratus}
4	medusa-head-wildrye	{Elymus-caput-medusae}
5	creeping-bellflower	{Campanula-rapunculoides}
6	yellow-toadflax	{Binaria-vulgaris}
7	<del>{ii}-"Restricted--noxious--weed-seeds"-are-the-seeds-of</del>	
8	<del>weeds-that-are-very--objectionable--in--fields,--lawns,--and</del>	
9	<del>gardens-of-this-state-but-can-be-controlled-by-good-cultural</del>	
10	<del>practices;--Restricted--noxious-weed-seeds-include-the-seeds</del>	
11	<del>of:</del>	
12	dodder	{Euscuta-spp.}
13	blue-lettuce	{Lactuca-pulchella}
14	St.-Johnswort	{Hypericum-perforatum}
15	oxeye-daisy	{Chrysanthemum---leucanthemum}
16	spotted-knapweed	{Centaurea-maculosa}
17	hoary-alyssum	{Berteroa-incana}
18	wild-oats	{Avena-fatua}
19	buckhorn-plantain	{Plantago-lanceolata}
20	chickweed	{Stellaria-spp.}
21	curly-dock	{Rumex-crispus}

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

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

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

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

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

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

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

(11) The term "name of state in which the seed was

1 grown" means any of the several states of the United States  
2 or the foreign country.

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

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

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

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

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

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

25 (16) The term "protected variety" means a variety for

1 which a certificate has been issued by the U.S. plant  
2 variety protection office or for which an application for  
3 protection has been filed granting the owner or his  
4 authorized agent exclusive rights in the sale and  
5 distribution of the variety."

6 Section 2. Section 80-5-105, MCA, is amended to read:

7 "80-5-105. Prohibitions. A person, firm, corporation,  
8 partnership, or association may not sell or transport for  
9 use in planting in this state any agricultural, vegetable,  
10 or flower seed that:

11 (1) contains prohibited noxious weed seeds;

12 (2) contains restricted noxious weed seeds in excess  
13 of the maximum numbers per pound as follows: as specified in  
14 rules adopted by the department;

15	16	17	18	19	20	21	22	23	24	25	Number-of seeds-per pound
17	Common-name	Species									
18	dodder	{Euscuta-spp-}									10
19	blue-lettuce	{Lactuca-pulchella}									27
20	St.-Johnswort	{Hypericum-perforatum}									27
21	oxeye-daisy	{Chrysanthemum---leucanthemum}									90
22	spotted	{Centaurea-maculosa}									10
23	knapweed										
24	heary---aiysson	{Berteroa-incana}									9
25	wild-oats	{Avena-fatua}									45

1	buckhorn	{ <i>Plantago-lanceolata</i> }	90
2	plantain		
3	chickweed	{ <i>Stellaria-spp.</i> }	9
4	curly-dock	{ <i>Rumex-crispus</i> }	45

5 (3) contains in excess of 2% or more of weed seed;

6 (4) is offered or exposed for sale more than 12  
7 calendar months from the last day of the month in which the  
8 germination test was completed. This 12-month limitation  
9 does not apply when seed is packaged in hermetically sealed  
10 containers within 12 months after harvest. The container  
11 must be conspicuously labeled in not less than 8-point type  
12 to indicate that:

13 (a) the container is hermetically sealed;

14 (b) the seed has been preconditioned as to moisture  
15 content;

16 (c) the germination test is valid for a period not to  
17 exceed 18 months from the date of the germination test for  
18 seeds offered for sale on a wholesale basis and for a period  
19 not to exceed 36 months for seeds offered for sale at  
20 retail;

21 (d) the germination of vegetable seed at the time of  
22 packaging was equal to or above standards prescribed in the  
23 Federal Seed Act of August 1939, 7 U.S.C. 1551 through 1610,  
24 amended October 15, 1967, with subsequent revisions;

25 (5) is represented in any manner to be for lawn

1 seeding purposes, unless it contains at least 50% pure seed  
2 of fine-textured perennial species which shall be specified  
3 by rules under this part. However, grass mixtures which do  
4 not contain 50% pure seed of fine-textured perennial grasses  
5 may be sold. When these grass mixtures are contained in  
6 packages of 25 pounds or less, they shall carry the  
7 statements: "Not recommended for a fine-textured perennial  
8 turf. Satisfactory for a temporary ground cover or where  
9 coarse grass is not objectionable." A definition of  
10 fine-textured varieties to be adopted in the rules is as  
11 follows:

12 (a) bluegrasses--all varieties except Canada bluegrass  
13 (*Poa compressa*), annual bluegrass (*Poa annua*), and rough  
14 bluegrass (*Poa trivialis*);

15 (b) chewings red fescue and all improved varieties;

16 (c) creeping red fescue and all improved varieties;

17 (d) bentgrass--all varieties;

18 (e) fine-textured ryegrasses;

19 (6) is labeled, advertised, or otherwise represented  
20 as being certified seed of any class thereof unless:

21 (a) it has been determined by a seed certifying agency  
22 that such seed conforms to standards of purity and identity  
23 as to kind, species (and subspecies, if appropriate), or  
24 variety; and

25 (b) the seed bears an official label issued for such

1 seed by a seed certifying agency certifying that the seed is  
2 of a specified class and a specified kind, species (and  
3 subspecies, if appropriate), or variety;

4 (7) is labeled with a variety name for which a U.S.  
5 certificate of plant variety protection has been issued or  
6 applied for under the provisions of the Plant Variety  
7 Protection Act (7 U.S.C. 2321, et. seq.) without the  
8 authority of the owner of the variety or is labeled with a  
9 variety name but not certified by an official seed  
10 certifying agency when it is a variety for which the  
11 certificate or application for "protection" specifies sale  
12 only as a class of certified seed, provided that seed from a  
13 certified lot may be labeled as to variety name when used in  
14 a mixture by or with approval of the owner of the variety."

15 NEW SECTION. Section 3. Extension of authority. Any  
16 existing authority of the department of agriculture to make  
17 rules on the subject of the provisions of this act is  
18 extended to the provisions of this act.

-End-

HB 0220/si  
RE-REFERRED AND  
APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION  
AS AMENDED

STATEMENT OF INTENT

HOUSE BILL 220

House Agriculture, Livestock and Irrigation Committee

This bill requires a statement of intent because ~~80-5-101~~ SECTION 1 and 80-5-105, as amended, require the department of agriculture to adopt rules defining noxious weed seeds.

It is the intent of the legislature that the department establish rules for prohibited or restricted noxious weed seeds for the purpose of implementing Title 80, chapter 7, part 8, and Title 7, chapter 22, part 21. The legislature intends that ~~the-listed~~ noxious weed seeds be classified into two categories, prohibited noxious weed seeds and restricted noxious weed seeds. The characteristics of the two categories are as follows:

(1) "Prohibited noxious weed seeds" means seeds of annual and perennial plants that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(2) "Restricted noxious weed seeds" are seeds of weeds that are very objectionable in fields, lawns, and gardens of this state that can be controlled by good cultural

practices.

The legislature intends that ~~the-listed~~ SEED DESIGNATED AS noxious weed seeds UNDER CURRENT STATUTES need not be identical to the SEED CLASSIFIED AS noxious weeds-listed-by WEED SEEDS UNDER rules adopted ~~under--the--above--mentioned~~ statutes BY THE DEPARTMENT. ~~The~~ HOWEVER, THE DEPARTMENT SHALL INCLUDE THE SEEDS OF LEAFY SPURGE AND RUSSIAN KNAPWEED IN THE PROHIBITED NOXIOUS WEED SEEDS CATEGORY. IN ADDITION, THE DEPARTMENT SHALL DESIGNATE THE SEEDS OF SPOTTED KNAPWEED AND DYERS WOAD AS RESTRICTED NOXIOUS WEED SEEDS. THUS, EXCEPT AS OTHERWISE PROVIDED UNDER THIS ACT, THE Montana department of agriculture shall determine which noxious weed seeds must be prohibited and which noxious weed seeds should be restricted and at what levels.

SECOND READING  
SECOND PRINTING





HOUSE BILL NO. 220

INTRODUCED BY DEMARS, SWYSGOOD, THOFT, HARPER

~~BY-REQUEST-OF-THE-DEPARTMENT-OF-AGRICULTURE~~

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE AGRICULTURAL SEED LAWS; TO PERMIT THE DEPARTMENT OF AGRICULTURE TO DEFINE BY RULE THE NOXIOUS WEED SEEDS THAT ARE PROHIBITED OR RESTRICTED IN THE SEED LABELING LAW; AND TO ESTABLISH CERTAIN LICENSING REQUIREMENTS; AMENDING SECTIONS ~~80-5-101~~ AND 80-5-102 THROUGH 80-5-105, 80-5-107 THROUGH 80-5-113, 80-5-202, 80-5-204, 80-5-205, AND 80-5-207, MCA; REPEALING SECTIONS 80-5-101, 80-5-106, 80-5-201, AND 80-5-203, MCA; AND PROVIDING EFFECTIVE DATES."

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

(Refer to Second Reading Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

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

(2) "Approximate percentage" and "approximate number"

mean the percentage or number with the variations above and below that value as allowed according to the tolerance limits defined in the "rules for seed testing" adopted by the association of official seed analysts.

(3) "Bin-run seed sales" means seed sales from one farmer to another farmer with seeds sold "as is" without guaranty or analysis.

(4) "Certifying agency" means:

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

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to generally by the seed certifying agencies described in subsection (4)(a).

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

(6) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under

1 the name of flower seeds in this state.

2 (7) "Hybrid", as the term applies to varieties of  
3 seed, means the first generation seed of a cross produced by  
4 controlling the pollination and by combining:

5 (a) two or more inbred lines;

6 (b) one inbred or a single cross with an open  
7 pollinated variety; or

8 (c) two or more selected clones, seed lines,  
9 varieties, or species.

10 (8) "Indigenous seeds" means the seeds of those plants  
11 that are naturally adapted to an area where the intended use  
12 is for revegetation of disturbed sites. These plants  
13 include grasses, forbs, shrubs, and legumes.

14 (9) "Labeling" means to affix, before offering the  
15 seed for sale, on the exterior of the container in a  
16 conspicuous place a label written or printed in the English  
17 language that has not been altered, giving the information  
18 required under this chapter.

19 (10) "Montana certified seed grower" means a member of  
20 an authorized Montana seed certifying agency who has  
21 consented to produce seed under the rules for certified  
22 classes of seed, with respect to the maintenance of genetic  
23 purity and variety identity, set forth by the establishing  
24 agency.

25 (11) "Name of the state in which the seed was grown"

1 means any of the several states of the United States or a  
2 foreign country.

3 (12) "Other crop seeds" means any agricultural,  
4 vegetable, or flower seeds other than the seed or the  
5 mixture of seeds under consideration.

6 (13) "Percentage of germination" means the percentage  
7 of seeds that show normal sprouts as evidence of vitality  
8 when the seeds are subjected to the proper moisture and  
9 temperature conditions with proper aeration for the  
10 customary length of time for each specific kind of seed, as  
11 specified in the "rules for seed testing" adopted by the  
12 association of official seed analysts.

13 (14) "Percentage viability" means the percentage of  
14 live seed capable of producing a normal seedling under  
15 optimum growing conditions, after all forms of dormancy have  
16 been overcome, if present.

17 (15) "Person" means any individual, firm, partnership,  
18 corporation, or association.

19 (16) (a) "Prohibited noxious weed seeds" means the  
20 seeds of perennial and other noxious weeds that not only  
21 reproduce by seed but also may spread by underground roots,  
22 stems, and other reproductive parts and that, when well  
23 established, are highly destructive and difficult to control  
24 in this state by ordinary good cultural practice. Prohibited  
25 noxious weed seeds include the seeds of:

1 (i) leafy spurge (*Euphorbia esula*); and  
 2 (ii) Russian knapweed (*Centaurea repens*).  
 3 (b) Prohibited noxious weed seeds includes the seeds  
 4 or bulbets of any other plant designated as prohibited weed  
 5 seeds under rules adopted by the department.  
 6 (17) "Protected variety" means a variety for which a  
 7 certificate has been issued by the United States plant  
 8 variety protection office or for which an application for  
 9 protection has been filed granting the owner or his  
 10 authorized agent exclusive rights in the sale and  
 11 distribution of the variety.  
 12 (18) "Restricted noxious weed seeds" means the seeds  
 13 and bulbets of any plant designated as restricted weed seeds  
 14 under rules adopted by the department. The term includes the  
 15 seeds of:  
 16 (a) spotted knapweed (*Centaurea maculosa*); and  
 17 (b) dyers woad (*Isatis tinctoria*).  
 18 (19) "Screening" means chaff, sterile florets, immature  
 19 seed, weed seed, inert matter, and any other materials  
 20 removed from seed by any kind of cleaning or conditioning.  
 21 (20) "Seed conditioning plant" means any place of  
 22 business that repackages, conditions, blends, treats, or  
 23 otherwise manipulates agricultural seeds.  
 24 (21) "Seed dealer" means any person who offers for  
 25 sale, sells, or barter agricultural seeds.

1 (22) "Seed labeler" means any person affixing labels to  
 2 agricultural seeds, with his name and address listed as  
 3 required in 80-5-102 when such seed is distributed in  
 4 Montana.  
 5 (23) "Sell" means to offer for sale, expose for sale,  
 6 have in possession for sale, exchange, barter, or trade.  
 7 The term includes furnishing agricultural seed to growers  
 8 for the production of a crop on contract.  
 9 (24) "Vegetable seeds" means seeds of those crops that  
 10 are or may be grown in gardens or on truck farms and are or  
 11 may be sold generally under the name of vegetable seeds.  
 12 (25) "Weed seeds" means the seeds or bulbets of all  
 13 plants generally recognized as weeds within this state and  
 14 includes noxious weed seeds.  
 15 Section 2. Section 80-5-102, MCA, is amended to read:  
 16 "80-5-102. Labeling of agricultural seeds. Any person  
 17 offering for sale a package, parcel, or lot of agricultural  
 18 seeds, as defined in ~~80-5-101~~ section 1, that contains 1  
 19 pound or more of agricultural seeds, whether in package or  
 20 in bulk, must have affixed to it a label specifying:  
 21 (1) a lot number or other distinguishing mark;  
 22 (2) kind. The name of each kind of seed present in  
 23 excess of 5% shall be shown on the label and need not be  
 24 accompanied by the word "kind". When two or more kinds of  
 25 seed are named on the label, the name of each kind shall be

1 accompanied by the percentage of each. When only one kind of  
2 seed is present in excess of 5% and no variety name or type  
3 designation is shown, the percentage of that kind may be  
4 shown as "pure seed" and such percentage shall apply to seed  
5 of the kind named.

6 (3) variety, as follows:

7 (a) the following kinds of agricultural seeds shall  
8 be labeled to show the variety name or the words "variety  
9 not stated":

10 alfalfa	oat
11 barley	pea, field
12 bean, field	rye
13 beet, field	safflower
14 brome, smooth	sorghum
15 clover, crimson	sorghum-sudan hybrid
16 clover, red	soybean
17 clover, white	sudan grass
18 corn, field	sunflower
19 corn, pop	trefoil, birdsfoot
20 fescue, tall	<u>wheat, club</u>
21 flax	wheat, common
22 millet, foxtail	wheat, durum

23 (b) if the name of the variety is given, the name may  
24 be associated with the name of the kind with or without the  
25 words "kind and variety". The percentage in this case may

1 be shown as "pure seed" and shall apply only to seed of the  
2 variety named. If separate percentages for the kind and the  
3 variety or hybrid are shown, the name of the kind and the  
4 name of the variety or the term "hybrid" shall be clearly  
5 associated with the respective percentages. When two or more  
6 varieties are present in excess of 5% and are named on the  
7 label, the name of each variety shall be accompanied by the  
8 percentage of each.

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

22 (a) the percentage of pure seed that is hybrid seed;  
23 or

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

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

5 (6) the approximate percentage of germination of  
6 agricultural seed, together with the date of test of  
7 germination. In all cases where hard seeds remain at the end  
8 of the germination test, the percentage of actual  
9 germination and the percentage of hard seeds shall be stated  
10 separately, with the provision that any portion or all of  
11 the percentage of hard seeds may be added to the percentage  
12 of germination and stated as "total germination and hard  
13 seed".

14 (7) the germination date that must include the  
15 calendar month and year in which the germination test was  
16 completed;

17 (8) the purity analysis that must include:

18 (a) the approximate percentage by weight of pure  
19 seed, meaning the freedom of agricultural seeds from inert  
20 matter and from other seeds;

21 (b) the approximate percentage by weight of sand,  
22 dirt, broken seeds, sticks, chaff, and other inert matter  
23 combined in agricultural seeds;

24 (c) the approximate total percentage by weight of  
25 weed seeds;

1 (d) the approximate percentage by weight of other  
2 crop seeds in agricultural seeds; and

3 (e) the name and approximate number of each kind  
4 or species of restricted noxious weed seeds occurring per  
5 pound of ~~agricultural, vegetable, or flower seeds~~ seed;

6 (9) the full name and address of the seedsman,  
7 importer, dealer or agent, or other person, firm, or  
8 corporation selling the ~~agricultural~~ seed;

9 (10) in the case of mixtures of agricultural seeds  
10 which contain two or more kinds of seed in excess of 5% by  
11 weight of each, when sold as mixtures:

12 (a) name of mixture;

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

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

18 (d) approximate percentage by weight of weed seeds as  
19 defined in ~~80-5-101~~ [section 1];

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

22 (f) name and approximate number of each kind or  
23 species of restricted noxious weed seeds occurring per pound  
24 of mixtures of agricultural seeds, subject, however, to  
25 restrictions ~~as specified in~~ established under 80-5-105;

1 (g) approximate percentage of germination of each kind  
 2 of agricultural seed present in the mixture in excess of 5%  
 3 by weight, together with the month and year the seed was  
 4 tested. In all cases where hard seeds remain at the end of  
 5 the germination test, the percentage of actual germination  
 6 and the percentage of hard seeds shall be stated separately,  
 7 with the provision that any portion or all of the hard seed  
 8 may be added to the percentage of germination and stated as  
 9 "total germination and hard seed".

10 (h) full name and address of the vendor of the  
 11 mixture."

12 Section 3. Section 80-5-103, MCA, is amended to read:

13 "80-5-103. Exchange of seed between labelers. (1) When  
 14 seed is exchanged or transferred from one seed labeler to  
 15 another, it shall be accompanied by a shipping document  
 16 which clearly shows the kind(s) of seed and quantity of each  
 17 kind. Each container of seed in a lot shall carry  
 18 appropriate a lot number designation and ~~shall~~ be  
 19 accompanied by mechanical analysis for each lot so involved.

20 (2) While seed is in the possession of a licensed seed  
 21 labeler, it must carry a lot number on each container at all  
 22 times. When seed is made available for sale or sold, a  
 23 complete label must be attached to each container of a lot."

24 Section 4. Section 80-5-104, MCA, is amended to read:

25 "80-5-104. Labeling of vegetable, flower, and

1 indigenous seeds. (1) Vegetable and flower seeds in packets  
 2 and in larger containers shall be labeled with the required  
 3 information as follows:

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

5 (i) the commonly accepted name of the kind or the kind  
 6 and variety of the seed;

7 (ii) the name and address of the person who labeled the  
 8 seed or who sells the seed within this state;

9 (iii) the name and number per pound of each kind of  
 10 restricted noxious weed seeds as prescribed in by rules  
 11 adopted under 80-5-105;

12 (iv) in the case of seed which has a percentage of  
 13 germination less than the standard prescribed in the Federal  
 14 Seed Act:

15 (A) the percentage of germination;

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

17 (C) the month and year the test to determine the data  
 18 required by this section was completed;

19 (D) the words "below standard germination" in not less  
 20 than 8-point boldface type;

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

22 (i) the name of the kind and variety of the contents;

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

24 (iii) the name and number per pound of each kind of  
 25 restricted noxious weed seeds as prescribed in by rules

1 adopted under 80-5-105;  
 2 (iv) the percentage of germination and whether the  
 3 percentage of germination meets or exceeds the standard  
 4 established in the Federal Seed Act;  
 5 (v) the percentage of hard seed, if more than 1%;  
 6 (vi) the month and year the test to determine the data  
 7 required by this section was completed;  
 8 (vii) the name and address of the person who labeled  
 9 the seed or who sells the seed within this state.  
 10 (2) Indigenous seeds, as defined in ~~80-5-101~~ [section  
 11 1], in amounts of 1 pound or more, whether in package or  
 12 bulk, must be labeled with the following information:  
 13 (a) the statement "Labeled only for reclamation  
 14 purposes";  
 15 (b) lot number or other distinguishing mark;  
 16 (c) the common name, genus, species, and subspecies  
 17 when applicable, including the name of each kind of seed  
 18 present in excess of 5%. When two or more kinds of seed are  
 19 named on the label, the label shall specify the percentage  
 20 of each. When only one kind of seed is present in excess of  
 21 5% and no variety name or type designation is shown, the  
 22 percentage must apply to seed of the kind named. If the name  
 23 of the variety is given, the name may be associated with the  
 24 name of the kind. The percentage in this case may be shown  
 25 as "pure seed" and must apply only to seed of the variety

1 named.  
 2 (d) state or country of origin, if known. If the  
 3 origin is unknown, that fact shall be stated.  
 4 (e) the approximate percentage of viable seed,  
 5 together with the date of test. When labeling mixtures, the  
 6 percentage viability of each kind shall be stated.  
 7 (f) the approximate percentage by weight of pure seed,  
 8 meaning the freedom of seed from inert matter and from other  
 9 seeds;  
 10 (g) the approximate percentage by weight of sand,  
 11 dirt, broken seeds, sticks, chaff, and other inert matter;  
 12 (h) the approximate total percentage by weight of  
 13 other seeds;  
 14 (i) the name and approximate number of each kind of  
 15 species of restricted noxious weed seeds occurring per pound  
 16 of seed;  
 17 (j) the full name and address of the person, firm, or  
 18 corporation selling the seed."  
 19 Section 5. Section 80-5-105, MCA, is amended to read:  
 20 "80-5-105. Prohibitions. A person, firm, corporation,  
 21 partnership, or association may not sell or transport for  
 22 use in planting in this state any ~~agricultural, vegetable,~~  
 23 ~~or-flower~~ seed that:  
 24 (1) contains prohibited noxious weed seeds;  
 25 (2) contains restricted noxious weed seeds in excess

1 of either:

2 (a) the maximum numbers per pound allowed under rules  
 3 adopted by the department; or

4 (b) the maximum numbers per pound as follows:

5			Number of
6			seeds per
7	Common name	Species	pound
8	dodder	{Euscuta-spp.}	10
9	dyers woad	{Isatis tinctoria}	0
10	blue-lettuce	{Lactuca-pulchella}	27
11	St. Johnswort	{Hypericum-perforatum}	27
12	oxeye-daisy	{Chrysanthemum---leucanthemum}	90
13	spotted	{Centaurea maculosa}	10 0
14	knapweed		
15	hoary---alyssum	{Berteroa-incana}	9
16	wild oats	{Avena fatua}	45
17		<u>(per pound of</u>	
18		<u>grass seed)</u>	
19		9	
20		<u>(per pound of</u>	
21		<u>cereal seed)</u>	
22	buckhorn	{Plantago-lanceolata}	90
23	plantain		
24	chickweed	{Stellaria-spp.}	9
25	curly-dock	{Rumex-crispus}	45

1 (3) contains in excess of 2% or more of weed seed;

2 (4) is offered or exposed for sale more than 12  
 3 calendar months from the last day of the month in which the  
 4 germination test was completed. This 12-month limitation  
 5 does not apply when seed is packaged in hermetically sealed  
 6 containers within 12 months after harvest. The container  
 7 must be conspicuously labeled in not less than 8-point type  
 8 to indicate that:

9 (a) the container is hermetically sealed;

10 (b) the seed has been preconditioned as to moisture  
 11 content;

12 (c) the germination test is valid for a period not to  
 13 exceed 18 months from the date of the germination test for  
 14 seeds offered for sale on a wholesale basis and for a period  
 15 not to exceed 36 months for seeds offered for sale at  
 16 retail;

17 (d) the germination of vegetable seed at the time of  
 18 packaging was equal to or above standards prescribed in the  
 19 Federal Seed Act of August 1939, 7 U.S.C. 1551 through 1610,  
 20 amended October 15, 1967, with subsequent revisions;

21 ~~{5}--is-represented--in--any--manner--to--be--for--lawn~~  
 22 ~~seeding--purposes,--unless--it--contains--at--least--50%--pure--seed~~  
 23 ~~of--fine--textured--perennial--species--which--shall--be--specified~~  
 24 ~~by--rules--under--this--part. However, grass mixtures which do~~  
 25 ~~not--contain--50%--pure--seed--of--fine--textured--perennial--grasses~~



1 may be sold. When these grass mixtures are contained in  
 2 packages of 25 pounds or less, they shall carry the  
 3 statements: "Not recommended for a fine-textured perennial  
 4 turf. Satisfactory for a temporary ground cover or where  
 5 coarse grass is not objectionable." A definition of  
 6 fine-textured varieties to be adopted in the rules is as  
 7 follows:

- 8 (a) bluegrasses all varieties except Canada bluegrass
- 9 (Poa compressa), annual bluegrass (Poa annua), and rough
- 10 bluegrass (Poa trivialis);
- 11 (b) chewings red fescue and all improved varieties;
- 12 (c) creeping red fescue and all improved varieties;
- 13 (d) bentgrass all varieties;
- 14 (e) fine-textured ryegrasses;

15 (f) (5) is labeled, advertised, or otherwise  
 16 represented as being certified seed of any class thereof  
 17 unless:

18 (a) it has been determined by a seed certifying agency  
 19 that such seed conforms to standards of purity and identity  
 20 as to kind, species (and subspecies, if appropriate), or  
 21 variety; and

22 (b) the seed bears an official label issued for such  
 23 seed by a seed certifying agency certifying that the seed is  
 24 of a specified class and a specified kind, species (and  
 25 subspecies, if appropriate), or variety;

1 (7) (6) is labeled with a variety name for which a U.S.  
 2 certificate of plant variety protection has been issued or  
 3 applied for under the provisions of the Plant Variety  
 4 Protection Act (7 U.S.C. 2321, et. seq.) without the  
 5 authority of the owner of the variety or is labeled with a  
 6 variety name but not certified by an official seed  
 7 certifying agency when it is a variety for which the  
 8 certificate or application for "protection" specifies sale  
 9 only as a class of certified seed, provided that seed from a  
 10 certified lot may be labeled as to variety name when used in  
 11 a mixture by or with approval of the owner of the variety."

12 Section 6. Section 80-5-107, MCA, is amended to read:

13 "80-5-107. Exemptions. Agricultural seeds Seed or  
 14 mixtures of same shall be exempt from the provisions of this  
 15 part:

16 (1) when possessed, exposed for sale, or sold for food  
 17 purposes only;

18 (2) when sold to merchants or dealers to be  
 19 conditioned before being sold or offered for sale for  
 20 seeding purposes;

21 (3) when in store for the purpose of conditioning or  
 22 not possessed, sold, or offered for sale for seeding  
 23 purposes within the state."

24 Section 7. Section 80-5-108, MCA, is amended to read:

25 "80-5-108. Inspection Analysis by grain and seed

1 laboratory -- reports. The ~~grain-and~~ seed laboratory of the  
 2 agricultural experiment station shall inspect, analyze, and  
 3 test seeds sold or offered or exposed for sale in this state  
 4 at a time and place and to the extent the director of the  
 5 agricultural experiment station and the department  
 6 determine. The laboratory shall report to the department all  
 7 violations as they appear. It shall may also annually before  
 8 September 1 make a report to the department of all tests  
 9 made and the results, which may be published by the  
 10 department. ~~The-laboratory-and--the--department--shall--have~~  
 11 ~~free--access--at--all--reasonable--hours--to--all--premises-or~~  
 12 ~~structures-to-make-examination-of-any--seeds--or--any--other~~  
 13 ~~premises--of-a-warehouse,-elevator,-or-railway-company.-Upon~~  
 14 ~~tendering-payment-at-the-current-value,-the--department--may~~  
 15 ~~take-any-sample-of-seeds."~~

16 Section 8. Section 80-5-109, MCA, is amended to read:

17 "80-5-109. Testing of submitted samples. The grain-and  
 18 seed laboratory shall analyze any official seed samples  
 19 taken from seed lots offered for sale in the state and or  
 20 submitted by the department using methods such as those  
 21 established under the Federal Seed Act and the procedural  
 22 guidelines developed by the association of official seed  
 23 analysts."

24 Section 9. Section 80-5-110, MCA, is amended to read:

25 "80-5-110. Laboratory testing of samples -- fees. Any

1 citizen of this state may request the ~~grain--and~~ seed  
 2 laboratory to examine, analyze, and test samples of seed  
 3 upon payment of the fee and compliance with rules governing  
 4 the submission of seed samples for such service. Samples of  
 5 seed analyzed and tested shall be charged for at rates  
 6 determined-jointly established by the rule of the department  
 7 and--the--director--of--the--grain--and--seed--laboratory as  
 8 recommended by the agricultural experiment station. All fees  
 9 collected by the grain-and seed laboratory shall be used to  
 10 defray the expenses incurred by the laboratory under  
 11 ~~80-5-101~~ 80-5-102 through 80-5-113."

12 Section 10. Section 80-5-111, MCA, is amended to read:

13 "80-5-111. Certificate of test presumptive evidence.  
 14 The certificate of the ~~grain-and~~ seed laboratory, giving  
 15 results of any examinations, analyses, or tests of any seed  
 16 samples made under the authority of the department, is  
 17 presumptive evidence of the correctness of the facts stated  
 18 in it."

19 Section 11. Section 80-5-112, MCA, is amended to read:

20 "80-5-112. Enforcement -- rules. The department shall  
 21 administer and enforce ~~80-5-101~~ 80-5-102 through 80-5-113.  
 22 For that purpose, the department may adopt rules. The  
 23 department may issue and enforce a written or printed "stop  
 24 sale" order to the owner or custodian of any lot of  
 25 ~~agricultural~~ seed which the department finds in violation of

1 ~~80-5-101~~ 80-5-102 through 80-5-113. The order shall prohibit  
 2 further sale of the seed until the department has evidence  
 3 that the law has been complied with. The seed may not be  
 4 confiscated or destroyed. Upon proper correction, by  
 5 reconditioning, labeling, or otherwise, and when, in the  
 6 judgment of the department, the requirements of ~~80-5-101~~  
 7 80-5-102 through 80-5-113 have been met, the stop sale order  
 8 shall be lifted and the seed may be sold. The department  
 9 shall adopt all necessary rules relating to the agricultural  
 10 experiment station's duties under ~~80-5-101~~ 80-5-102 through  
 11 80-5-113."

12 Section 12. Section 80-5-113, MCA, is amended to read:  
 13 "80-5-113. Penalty. Any person, firm, or corporation  
 14 which sells or offers or exposes for sale or distribution in  
 15 the state any ~~agricultural-seeds~~ seed for seeding purposes  
 16 without complying with the requirements of ~~80-5-101~~ 80-5-102  
 17 through 80-5-113 is guilty of a misdemeanor and upon  
 18 conviction shall be fined not less than \$100 or more than  
 19 \$300 plus costs of such prosecution and upon conviction of  
 20 the second or any subsequent offense shall be fined not less  
 21 than \$500 or more than \$1,000 plus costs of such  
 22 prosecution."

23 Section 13. Section 80-5-202, MCA, is amended to read:  
 24 "80-5-202. Licensing ---~~issuance~~ -- application -- fee  
 25 ---~~bonding~~-----~~insurance~~. (1) All seed conditioning plants

1 ~~and-seed-labelers~~ shall obtain a license from the department  
 2 for each plant before doing business in this state; however,  
 3 a ~~Montana--certified~~ seed grower, when conditioning or  
 4 ~~labeling--certified~~ seed from his own production, is not  
 5 required to be licensed under this part. ~~Bin-run-seed--sales~~  
 6 ~~from-one-farmer-to-another-are-exempt-from-this-part.~~

7 ~~(2)--All-licenses-are-issued-on-a-fiscal-year-basis-and~~  
 8 ~~expire-on-June-30-of-each-year.~~

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

21 (2) Each conditioning plant must post in a conspicuous  
 22 location in the facility:

23 (a) its fees for conditioning services; and

24 (b) the license designation for the facility.

25 (3) All seed labelers and growers who label or affix

1 written claims to their seed shall obtain a license from the  
 2 department before doing business in Montana. The following  
 3 persons, however, are excluded from the licensing  
 4 requirements under this subsection:

5 (a) a Montana certified seed grower when labeling  
 6 certified seed from his own production; and

7 (b) any person who updates germination test data by  
 8 affixing to the package of seed a supplemental label bearing  
 9 new germination data, the lot number, and his name and  
 10 address.

11 (4) No person may sell or distribute seed in Montana  
 12 without obtaining a seed dealer's license from the  
 13 department for each place where seed is located, except for:

14 (a) a person who distributes seed only in sealed  
 15 packages of 10 pounds or less that are properly labeled;

16 (b) a Montana certified seed grower when selling  
 17 certified seed from his own production; and

18 (c) a person when making bin-run seed sales.

19 (5) Each person selling seed from a location other  
 20 than the licensed place must be listed on the application  
 21 for license.

22 (6) The department shall set by rule the period for  
 23 which a license is issued under this section.

24 (4)(7) The department may establish by rule minimum  
 25 standards for equipment and handling procedures for

1 facilities to be licensed and may carry out inspections  
 2 during normal business hours to determine that these  
 3 standards are being adhered to.

4 (5)(8) Each license shall cost no more than \$50 a  
 5 year. The fee must include the cost of application for a  
 6 license and must be nonrefundable. The department may by  
 7 rule establish license fees which bear a reasonable  
 8 relationship to the cost of administering this part.

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

15 (9) An application for a license under this section  
 16 must be made in a manner and on forms provided by the  
 17 department. Such application must contain among other  
 18 things:

19 (a) the location of each seed conditioning plant if  
 20 the application is for a seed conditioning plant license;

21 (b) a sample label if the application is for a seed  
 22 labeler license; and

23 (c) a list of persons selling seed if the application  
 24 is for a seed dealer's license."

25 Section 14. Section 80-5-204, MCA, is amended to read:

1 "80-5-204. Screenings -- restrictions on movements.  
 2 All screenings whether from seed conditioning plants or  
 3 other sources represent both a valuable and potentially  
 4 hazardous product. Their movements are restricted as  
 5 follows:

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

13 (2) The department ~~has authority to issue~~ may adopt  
 14 rules to restrict or exempt from restriction the holding and  
 15 movement of screenings when the public interest is served by  
 16 so doing."

17 Section 15. Section 80-5-205, MCA, is amended to read:

18 "80-5-205. Violations. The following acts caused  
 19 within the state of Montana are prohibited:

20 (1) the failure or refusal to obtain a license as  
 21 required in 80-5-202 ~~and 80-5-203~~;

22 (2) the misbranding or mislabeling of ~~agricultural~~  
 23 seeds seed;

24 (3) the violation or failure to comply with rules  
 25 issued under the authority of this part."

1 Section 16. Section 80-5-207, MCA, is amended to read:

2 "80-5-207. Violation -- cancellation of license --  
 3 enforcement proceedings. (1) ~~The department may cancel any~~  
 4 ~~license issued by it when the provisions of this part have~~  
 5 ~~been violated by the holder of the license.~~ Distribution of  
 6 seeds that are not legally labeled or failure to comply with  
 7 this chapter or rules issued under its authority constitutes  
 8 sufficient grounds for the department to cancel or deny a  
 9 license to a licensee, provided that the licensee is given a  
 10 reasonable opportunity to correct inadvertent and  
 11 nonrecurring deficiencies.

12 (2) Any person convicted of violating the provisions  
 13 of this part or rules promulgated under the authority of  
 14 this part is guilty of a misdemeanor and shall be fined not  
 15 less than \$100 or more than \$300 for the first violation and  
 16 not less than \$500 or more than \$1,000 for each subsequent  
 17 violation.

18 (3) Nothing in this part shall be construed as  
 19 requiring the department or its representatives to report  
 20 violations of this part when it believes that the public  
 21 interest will be best served by a suitable notice of  
 22 warning.

23 (4) It is the duty of each county attorney to whom any  
 24 violation is reported to cause appropriate proceedings to be  
 25 instituted and prosecuted in a court of competent

1 jurisdiction without delay.

2 (5) The department is authorized to apply for and the  
 3 court to grant a temporary or permanent injunction  
 4 restraining any person from violating or continuing to  
 5 violate any of the provisions of this part or any rule  
 6 promulgated under this part notwithstanding the existence of  
 7 other remedies at law. An injunction is issued without bond.

8 (6) Any person adversely affected by an act, order, or  
 9 ruling made pursuant to the provisions of this part may  
 10 within 30 days bring action in the district court of the  
 11 county or any county where the alleged violation occurred  
 12 for trial of the issues bearing upon such act."

13 NEW SECTION. Section 17. Inspection. To enforce this  
 14 chapter, the department may enter, at reasonable times, any  
 15 public or private premises, including any vehicle of  
 16 transport, and upon entry to the premises, the department  
 17 may obtain samples, examine seeds and labels, inspect  
 18 equipment, and review records relating to distribution of  
 19 seed in Montana. The department may take any sample of seeds  
 20 as may be required; however, the department shall pay, upon  
 21 request, the firm current market value for each sample.

22 NEW SECTION. Section 18. Publication of reports. The  
 23 department may publish the names and addresses of persons  
 24 licensed under this chapter.

25 NEW SECTION. Section 19. Repealer. Sections 80-5-101,

1 80-5-106, 80-5-201, and 80-5-203, MCA, are repealed.

2 NEW SECTION. Section 20. Extension of authority. Any  
 3 existing authority of the department of agriculture to make  
 4 rules on the subject of the provisions of this act is  
 5 extended to the provisions of this act.

6 NEW SECTION. Section 21. Effective dates. (1) Section  
 7 20 and this section are effective on passage and approval,  
 8 except rules adopted by the department may not take effect  
 9 until October 1, 1987.

10 (2) The remaining sections of this act are effective  
 11 October 1, 1987.

-End-

HB 0220/s1  
RE-REFERRED AND  
APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION  
AS AMENDED

1 STATEMENT OF INTENT

2 HOUSE BILL 220

3 House Agriculture, Livestock and Irrigation Committee

4  
5 This bill requires a statement of intent because  
6 ~~80-5-101~~ SECTION 1 and 80-5-105, as amended, require the  
7 department of agriculture to adopt rules defining noxious  
8 weed seeds.

9 It is the intent of the legislature that the department  
10 establish rules for prohibited or restricted noxious weed  
11 seeds for the purpose of implementing Title 80, chapter 7,  
12 part 8, and Title 7, chapter 22, part 21. The legislature  
13 intends that the ~~listed~~ noxious weed seeds be classified  
14 into two categories, prohibited noxious weed seeds and  
15 restricted noxious weed seeds. The characteristics of the  
16 two categories are as follows:

17 (1) "Prohibited noxious weed seeds" means seeds of  
18 annual and perennial plants that not only reproduce by seed  
19 but also may spread by underground roots, stems, and other  
20 reproductive parts and which, when well established, are  
21 highly destructive and difficult to control in this state by  
22 ordinary good cultural practice.

23 (2) "Restricted noxious weed seeds" are seeds of weeds  
24 that are very objectionable in fields, lawns, and gardens of  
25 this state that can be controlled by good cultural

THERE ARE NO CHANGES IN HB 220 AND DUE  
TO LENGTH WILL NOT BE RE-RUN. PLEASE  
REFER TO SECOND READING, SECOND PRINTING  
FOR COMPLETE TEXT.

STATEMENT OF INTENT

HOUSE BILL 220

House Agriculture, Livestock and Irrigation Committee

This bill requires a statement of intent because 80-5-101 SECTION 1 and 80-5-105, as amended, require the department of agriculture to adopt rules defining noxious weed seeds.

It is the intent of the legislature that the department establish rules for prohibited or restricted noxious weed seeds for the purpose of implementing Title 80, chapter 7, part 8, and Title 7, chapter 22, part 21. The legislature intends that the-listed noxious weed seeds be classified into two categories, prohibited noxious weed seeds and restricted noxious weed seeds. The characteristics of the two categories are as follows:

(1) "Prohibited noxious weed seeds" means seeds of annual-and perennial plants that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(2) "Restricted noxious weed seeds" are seeds of weeds that are very objectionable in fields, lawns, and gardens of this state that can be controlled by good cultural

practices.

The legislature intends that the-listed SEED DESIGNATED AS noxious weed seeds UNDER CURRENT STATUTES need not be identical to the SEED CLASSIFIED AS noxious weeds-listed-by WEED SEEDS UNDER rules adopted under--the--above--mentioned statutes BY THE DEPARTMENT. The HOWEVER, THE DEPARTMENT SHALL INCLUDE THE SEEDS OF LEAFY SPURGE AND RUSSIAN KNAPWEED IN THE PROHIBITED NOXIOUS WEED SEEDS CATEGORY. IN ADDITION, THE DEPARTMENT SHALL DESIGNATE THE SEEDS OF SPOTTED KNAPWEED AND DYERS WOAD AS RESTRICTED NOXIOUS WEED SEEDS. THUS, EXCEPT AS OTHERWISE PROVIDED UNDER THIS ACT, THE Montana department of agriculture shall determine which noxious weed seeds must be prohibited and which noxious weed seeds should be restricted and at what levels.





## 1 HOUSE BILL NO. 220

2 INTRODUCED BY DEMARS, SWYSGOOD, THOFT, HARPER

3 BY-REQUEST-OF-THE-DEPARTMENT-OF-AGRICULTURE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
6 AGRICULTURAL SEED LAWS; TO PERMIT THE DEPARTMENT OF  
7 AGRICULTURE TO DEFINE BY RULE THE NOXIOUS WEED SEEDS THAT  
8 ARE PROHIBITED OR RESTRICTED IN THE SEED LABELING LAW; AND  
9 TO ESTABLISH CERTAIN LICENSING REQUIREMENTS; AMENDING  
10 SECTIONS 80-5-101-AND 80-5-102 THROUGH 80-5-105, 80-5-107  
11 THROUGH 80-5-113, 80-5-202, 80-5-204, 80-5-205, AND  
12 80-5-207, MCA; REPEALING SECTIONS 80-5-101, 80-5-106,  
13 80-5-201, AND 80-5-203, MCA; AND PROVIDING EFFECTIVE DATES."

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

16 (Refer to Second Reading Bill)

17 Strike everything after the enacting clause and insert:

18 NEW SECTION. Section 1. Definitions. As used in this  
19 chapter, unless the context requires otherwise, the  
20 following definitions apply:

21 (1) "Agricultural seeds" means the seeds of grass,  
22 forage, cereal, fiber crops, and any other kinds of seeds  
23 commonly recognized within this state as agricultural seeds.  
24 The term includes lawn seeds and mixtures of seeds.

25 (2) "Approximate percentage" and "approximate number"

1 mean the percentage or number with the variations above and  
2 below that value as allowed according to the tolerance  
3 limits defined in the "rules for seed testing" adopted by  
4 the association of official seed analysts.

5 (3) "Bin-run seed sales" means seed sales from one  
6 farmer to another farmer with seeds sold "as is" without  
7 guaranty or analysis.

8 (4) "Certifying agency" means:

9 (a) an agency authorized under the laws of a state,  
10 territory, or possession of the United States to officially  
11 certify seed and which has standards and procedures to  
12 assure the genetic purity and identity of the seed  
13 certified; or

14 (b) an agency of a foreign country determined by the  
15 department to adhere to procedures and standards for seed  
16 certification that are comparable to those adhered to  
17 generally by the seed certifying agencies described in  
18 subsection (4)(a).

19 (5) "Controlling the pollination" means to use a  
20 method of hybridization that will produce pure seed which is  
21 at least 75% hybrid seed. Hybrid designations must be  
22 treated as variety names.

23 (6) "Flower seeds" means seeds of herbaceous plants  
24 grown for their blooms, ornamental foliage, or other  
25 ornamental parts and that are commonly known and sold under

1 the name of flower seeds in this state.

2 (7) "Hybrid", as the term applies to varieties of  
3 seed, means the first generation seed of a cross produced by  
4 controlling the pollination and by combining:

5 (a) two or more inbred lines;

6 (b) one inbred or a single cross with an open  
7 pollinated variety; or

8 (c) two or more selected clones, seed lines,  
9 varieties, or species.

10 (8) "Indigenous seeds" means the seeds of those plants  
11 that are naturally adapted to an area where the intended use  
12 is for revegetation of disturbed sites. These plants  
13 include grasses, forbs, shrubs, and legumes.

14 (9) "Labeling" means to affix, before offering the  
15 seed for sale, on the exterior of the container in a  
16 conspicuous place a label written or printed in the English  
17 language that has not been altered, giving the information  
18 required under this chapter.

19 (10) "Montana certified seed grower" means a member of  
20 an authorized Montana seed certifying agency who has  
21 consented to produce seed under the rules for certified  
22 classes of seed, with respect to the maintenance of genetic  
23 purity and variety identity, set forth by the establishing  
24 agency.

25 (11) "Name of the state in which the seed was grown"

1 means any of the several states of the United States or a  
2 foreign country.

3 (12) "Other crop seeds" means any agricultural,  
4 vegetable, or flower seeds other than the seed or the  
5 mixture of seeds under consideration.

6 (13) "Percentage of germination" means the percentage  
7 of seeds that show normal sprouts as evidence of vitality  
8 when the seeds are subjected to the proper moisture and  
9 temperature conditions with proper aeration for the  
10 customary length of time for each specific kind of seed, as  
11 specified in the "rules for seed testing" adopted by the  
12 association of official seed analysts.

13 (14) "Percentage viability" means the percentage of  
14 live seed capable of producing a normal seedling under  
15 optimum growing conditions, after all forms of dormancy have  
16 been overcome, if present.

17 (15) "Person" means any individual, firm, partnership,  
18 corporation, or association.

19 (16) ~~(a)~~ "Prohibited noxious weed seeds" means the  
20 seeds of perennial ~~and other noxious weeds~~ PLANTS that not  
21 only reproduce by seed but also may spread by underground  
22 roots, stems, and other reproductive parts and that, when  
23 well established, are highly destructive and difficult to  
24 control in this state by ordinary good cultural practice.  
25 Prohibited noxious weed seeds include the seeds of:

1        ~~(A)~~ leafy spurge (*Euphorbia esula*); and  
 2        ~~(B)~~ Russian knapweed (*Centaurea repens*); AND  
 3        ~~(b) -- Prohibited noxious weed seeds includes -- the -- seeds~~  
 4        ~~or -- bulbets of any other plant designated as prohibited weed~~  
 5        ~~seeds under rules adopted by the department.~~

6        (C) PLANTS THAT ARE DESIGNATED BY RULE OF THE  
 7        DEPARTMENT AS PROHIBITED NOXIOUS WEEDS.

8        (17) "Protected variety" means a variety for which a  
 9        certificate has been issued by the United States plant  
 10       variety protection office or for which an application for  
 11       protection has been filed granting the owner or his  
 12       authorized agent exclusive rights in the sale and  
 13       distribution of the variety.

14       (18) "Restricted noxious weed seeds" means the seeds  
 15       and bulbets of any plant designated as restricted weed seeds  
 16       under rules adopted by the department. The term includes the  
 17       seeds of:

- 18       (a) spotted knapweed (*Centaurea maculosa*); and
- 19       (b) dyers woad (*Isatis tinctoria*).

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

23       (20) "Seed conditioning plant" means any place of  
 24       business that repackages, conditions, blends, treats, or  
 25       otherwise manipulates agricultural seeds.

1        (21) "Seed dealer" means any person who offers for  
 2        sale, sells, or barter agricultural seeds.

3        (22) "Seed labeler" means any person affixing labels to  
 4        agricultural seeds, with his name and address listed as  
 5        required in 80-5-102 when such seed is distributed in  
 6        Montana.

7        (23) "Sell" means to offer for sale, expose for sale,  
 8        have in possession for sale, exchange, barter, or trade.  
 9        The term includes furnishing agricultural seed to growers  
 10       for the production of a crop on contract.

11       (24) "Vegetable seeds" means seeds of those crops that  
 12       are or may be grown in gardens or on truck farms and are or  
 13       may be sold generally under the name of vegetable seeds.

14       (25) "Weed seeds" means the seeds or bulbets of all  
 15       plants generally recognized as weeds within this state and  
 16       includes noxious weed seeds.

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

18       "80-5-102. Labeling of agricultural seeds. Any person  
 19       offering for sale a package, parcel, or lot of agricultural  
 20       seeds, as defined in 80-5-102 [section 1], that contains 1  
 21       pound or more of agricultural seeds, whether in package or  
 22       in bulk, must have affixed to it a label specifying:

- 23       (1) a lot number or other distinguishing mark;
- 24       (2) kind. The name of each kind of seed present in  
 25       excess of 5% shall be shown on the label and need not be

1 accompanied by the word "kind". When two or more kinds of  
 2 seed are named on the label, the name of each kind shall be  
 3 accompanied by the percentage of each. When only one kind of  
 4 seed is present in excess of 5% and no variety name or type  
 5 designation is shown, the percentage of that kind may be  
 6 shown as "pure seed" and such percentage shall apply to seed  
 7 of the kind named.

8 (3) variety, as follows:

9 (a) the following kinds of agricultural seeds shall  
 10 be labeled to show the variety name or the words "variety  
 11 not stated":

12 alfalfa	oat
13 barley	pea, field
14 bean, field	rye
15 beet, field	safflower
16 brome, smooth	sorghum
17 clover, crimson	sorghum-sudan hybrid
18 clover, red	soybean
19 clover, white	sudan grass
20 corn, field	sunflower
21 corn, pop	trefoil, birdsfoot
22 fescue, tall	<u>wheat, club</u>
23 flax	wheat, common
24 millet, foxtail	wheat, durum

25 (b) if the name of the variety is given, the name may

1 be associated with the name of the kind with or without the  
 2 words "kind and variety". The percentage in this case may  
 3 be shown as "pure seed" and shall apply only to seed of the  
 4 variety named. If separate percentages for the kind and the  
 5 variety or hybrid are shown, the name of the kind and the  
 6 name of the variety or the term "hybrid" shall be clearly  
 7 associated with the respective percentages. When two or more  
 8 varieties are present in excess of 5% and are named on the  
 9 label, the name of each variety shall be accompanied by the  
 10 percentage of each.

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

24 (a) the percentage of pure seed that is hybrid seed;  
 25 or

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

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

7 (6) the approximate percentage of germination of  
8 agricultural seed, together with the date of test of  
9 germination. In all cases where hard seeds remain at the end  
10 of the germination test, the percentage of actual  
11 germination and the percentage of hard seeds shall be stated  
12 separately, with the provision that any portion or all of  
13 the percentage of hard seeds may be added to the percentage  
14 of germination and stated as "total germination and hard  
15 seed".

16 (7) the germination date that must include the  
17 calendar month and year in which the germination test was  
18 completed;

19 (8) the purity analysis that must include:

20 (7)(a) the approximate percentage by weight of pure  
21 seed, meaning the freedom of agricultural seeds from inert  
22 matter and from other seeds;

23 (8)(b) the approximate percentage by weight of sand,  
24 dirt, broken seeds, sticks, chaff, and other inert matter  
25 combined in agricultural seeds;

1 (9)(c) the approximate total percentage by weight of  
2 weed seeds;

3 (10)(d) the approximate percentage by weight of other  
4 crop seeds in agricultural seeds; and

5 (11)(e) the name and approximate number of each kind  
6 or species of restricted noxious weed seeds occurring per  
7 pound of ~~agricultural, vegetable, or flower seeds~~ seed;

8 (12)(9) the full name and address of the seedsman,  
9 importer, dealer or agent, or other person, firm, or  
10 corporation selling the ~~agricultural~~ seed;

11 (13)(10) in the case of mixtures of agricultural seeds  
12 which contain two or more kinds of seed in excess of 5% by  
13 weight of each, when sold as mixtures:

14 (a) name of mixture;

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

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

20 (d) approximate percentage by weight of weed seeds as  
21 defined in 80-5-101 [section 1];

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

24 (f) name and approximate number of each kind or  
25 species of restricted noxious weed seeds occurring per pound

1 of mixtures of agricultural seeds, subject, however, to  
 2 restrictions ~~as--specified-in established under 80-5-105 BY~~  
 3 RULE;

4 (g) approximate percentage of germination of each kind  
 5 of agricultural seed present in the mixture in excess of 5%  
 6 by weight, together with the month and year the seed was  
 7 tested. In all cases where hard seeds remain at the end of  
 8 the germination test, the percentage of actual germination  
 9 and the percentage of hard seeds shall be stated separately,  
 10 with the provision that any portion or all of the hard seed  
 11 may be added to the percentage of germination and stated as  
 12 "total germination and hard seed".

13 (h) full name and address of the vendor of the  
 14 mixture."

15 Section 3. Section 80-5-103, MCA, is amended to read:

16 "80-5-103. Exchange of seed between labelers. (1) When  
 17 seed is exchanged or transferred from one seed labeler to  
 18 another, it shall be accompanied by a shipping document  
 19 which clearly shows the kind(s) of seed and quantity of each  
 20 kind. Each container of seed in a lot shall carry  
 21 appropriate a lot number designation and--shall--be  
 22 accompanied-by-mechanical-analysis-for-each-lot-so-involved.

23 (2) While seed is in the possession of a licensed seed  
 24 labeler, it must carry a lot number on each container at all  
 25 times. When seed is made available for sale or sold, a

1 complete label must be attached to each container of a lot."

2 Section 4. Section 80-5-104, MCA, is amended to read:

3 "80-5-104. Labeling of vegetable, flower, and  
 4 indigenous seeds. (1) Vegetable and flower seeds in packets  
 5 and in larger containers shall be labeled with the required  
 6 information as follows:

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

8 (i) the commonly accepted name of the kind or the kind  
 9 and variety of the seed;

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

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

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

18 (A) the percentage of germination;

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

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

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

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

25 (i) the name of the kind and variety of the contents;

1 (ii) the lot numbers or other lot identification;  
 2 (iii) the name and number per pound of each kind of  
 3 restricted noxious weed seeds as prescribed in by rules  
 4 adopted under 80-5-105;  
 5 (iv) the percentage of germination and whether the  
 6 percentage of germination meets or exceeds the standard  
 7 established in the Federal Seed Act;  
 8 (v) the percentage of hard seed, if more than 1%;  
 9 (vi) the month and year the test to determine the data  
 10 required by this section was completed;  
 11 (vii) the name and address of the person who labeled  
 12 the seed or who sells the seed within this state.  
 13 (2) Indigenous seeds, as defined in ~~80-5-101~~ [section  
 14 1], in amounts of 1 pound or more, whether in package or  
 15 bulk, must be labeled with the following information:  
 16 (a) the statement "Labeled only for reclamation  
 17 purposes";  
 18 (b) lot number or other distinguishing mark;  
 19 (c) the common name, genus, species, and subspecies  
 20 when applicable, including the name of each kind of seed  
 21 present in excess of 5%. When two or more kinds of seed are  
 22 named on the label, the label shall specify the percentage  
 23 of each. When only one kind of seed is present in excess of  
 24 5% and no variety name or type designation is shown, the  
 25 percentage must apply to seed of the kind named. If the name

1 of the variety is given, the name may be associated with the  
 2 name of the kind. The percentage in this case may be shown  
 3 as "pure seed" and must apply only to seed of the variety  
 4 named.  
 5 (d) state or country of origin, if known. If the  
 6 origin is unknown, that fact shall be stated.  
 7 (e) the approximate percentage of viable seed,  
 8 together with the date of test. When labeling mixtures, the  
 9 percentage viability of each kind shall be stated.  
 10 (f) the approximate percentage by weight of pure seed,  
 11 meaning the freedom of seed from inert matter and from other  
 12 seeds;  
 13 (g) the approximate percentage by weight of sand,  
 14 dirt, broken seeds, sticks, chaff, and other inert matter;  
 15 (h) the approximate total percentage by weight of  
 16 other seeds;  
 17 (i) the name and approximate number of each kind of  
 18 species of restricted noxious weed seeds occurring per pound  
 19 of seed;  
 20 (j) the full name and address of the person, firm, or  
 21 corporation selling the seed."  
 22 Section 5. Section 80-5-105, MCA, is amended to read:  
 23 "80-5-105. Prohibitions. A person, firm, corporation,  
 24 partnership, or association may not sell or transport for  
 25 use in planting in this state any ~~agricultural~~--~~vegetable~~

1 or-flower seed that:  
 2 (1) contains prohibited noxious weed seeds;  
 3 (2) contains restricted noxious weed seeds in excess  
 4 of either:  
 5 (a) the maximum numbers per pound allowed under rules  
 6 adopted by the department; or  
 7 (b) the maximum numbers per pound as follows:

8			Number of
9			seeds per
10	Common name	Species	pound
11	odder	{Euscuta-spp-}	±8
12	dyers woad	{Isatis tinctoria}	0
13	blue-lettuce	{Lactuca-pulchella}	27
14	St.-Johnswort	{Hypericum-perforatum}	27
15	oxeye-daisy	{Chrysanthemum---leucanthemum}	90
16	spotted	{Centaurea maculosa}	±8 0
17	knapweed		
18	hoary---aiysson	{Berteroa-incana}	9
19	wild oats	{Avena fatua}	45
20		<u>(per pound of</u>	
21		<u>grass seed)</u>	
22		9	
23		<u>(per pound of</u>	
24		<u>cereal seed)</u>	
25	buckhorn	{Plantago-lanceolata}	90

1 plantain  
 2 chickweed {Stellaria-spp-} 9  
 3 curly-dock {Rumex-crispus} 45  
 4 (3) contains in excess of 2% or more of weed seed;  
 5 (4) is offered or exposed for sale more than 12  
 6 calendar months from the last day of the month in which the  
 7 germination test was completed. This 12-month limitation  
 8 does not apply when seed is packaged in hermetically sealed  
 9 containers within 12 months after harvest. The container  
 10 must be conspicuously labeled in not less than 8-point type  
 11 to indicate that:  
 12 (a) the container is hermetically sealed;  
 13 (b) the seed has been preconditioned as to moisture  
 14 content;  
 15 (c) the germination test is valid for a period not to  
 16 exceed 18 months from the date of the germination test for  
 17 seeds offered for sale on a wholesale basis and for a period  
 18 not to exceed 36 months for seeds offered for sale at  
 19 retail;  
 20 (d) the germination of vegetable seed at the time of  
 21 packaging was equal to or above standards prescribed in the  
 22 Federal Seed Act of August 1939, 7 U.S.C. 1551 through 1610,  
 23 amended October 15, 1967, with subsequent revisions;  
 24 (5) ~~is represented in any manner to be for lawn~~  
 25 ~~seeding purposes, unless it contains at least 50% pure seed~~



1 of--fine-textured-perennial-species-which-shall-be-specified  
 2 by-rules-under-this-part;-However,-grass-mixtures--which--do  
 3 not-contain-50%-pure-seed-of-fine-textured-perennial-grasses  
 4 may--be--sold;-When--these--grass-mixtures-are-contained-in  
 5 packages--of--25--pounds--or--less;-they--shall--carry--the  
 6 statements:--"Not--recommended-for-a-fine-textured-perennial  
 7 turf;-Satisfactory-for-a-temporary--ground--cover--or--where  
 8 coarse--grass--is--not--objectionable;"--A--definition--of  
 9 fine-textured-varieties-to-be-adopted-in--the--rules--is--as  
 10 follows:

11 (a)--bluegrasses--all-varieties-except-Canada-bluegrass  
 12 (Poa--compressa);--annual--bluegrass--(Poa--annua);--and-rough  
 13 bluegrass-(Poa-trivialis);

14 (b)--chewings-red-fescue-and-all-improved-varieties;

15 (c)--creeping-red-fescue-and-all-improved-varieties;

16 (d)--bentgrass--all-varieties;

17 (e)--fine-textured-ryegrasses;

18 (f)(5) is labeled, advertised, or otherwise  
 19 represented as being certified seed of any class thereof  
 20 unless:

21 (a) it has been determined by a seed certifying agency  
 22 that such seed conforms to standards of purity and identity  
 23 as to kind, species (and subspecies, if appropriate), or  
 24 variety; and

25 (b) the seed bears an official label issued for such

1 seed by a seed certifying agency certifying that the seed is  
 2 of a specified class and a specified kind, species (and  
 3 subspecies, if appropriate), or variety;

4 (7)(6) is labeled with a variety name for which a U.S.  
 5 certificate of plant variety protection has been issued or  
 6 applied for under the provisions of the Plant Variety  
 7 Protection Act (7 U.S.C. 2321, et. seq.) without the  
 8 authority of the owner of the variety or is labeled with a  
 9 variety name but not certified by an official seed  
 10 certifying agency when it is a variety for which the  
 11 certificate or application for "protection" specifies sale  
 12 only as a class of certified seed, provided that seed from a  
 13 certified lot may be labeled as to variety name when used in  
 14 a mixture by or with approval of the owner of the variety."

15 Section 6. Section 80-5-107, MCA, is amended to read:

16 "80-5-107. Exemptions. Agricultural--seeds Seed or  
 17 mixtures of same shall be exempt from the provisions of this  
 18 part:

19 (1) when possessed, exposed for sale, or sold for food  
 20 purposes only;

21 (2) when sold to merchants or dealers to be  
 22 conditioned before being sold or offered for sale for  
 23 seeding purposes;

24 (3) when in store for the purpose of conditioning or  
 25 not possessed, sold, or offered for sale for seeding

1 purposes within the state."

2 Section 7. Section 80-5-108, MCA, is amended to read:

3 "80-5-108. Inspection Analysis by grain--and seed  
4 laboratory -- reports. The grain-and seed laboratory of the  
5 agricultural experiment station shall inspect, analyze, and  
6 test seeds sold or offered or exposed for sale in this state  
7 at a time and place and to the extent the director of the  
8 agricultural experiment station and the department  
9 determine. The laboratory shall report to the department all  
10 violations as they appear. It shall may also annually before  
11 September 1 make a report to the department of all tests  
12 made and the results, which may be published by the  
13 department. ~~The laboratory and the department shall have~~  
14 ~~free access at all reasonable hours to all premises or~~  
15 ~~structures to make examination of any seeds or any other~~  
16 ~~premises of a warehouse, elevator, or railway company. Upon~~  
17 ~~tendering payment at the current value, the department may~~  
18 ~~take any sample of seeds."~~

19 Section 8. Section 80-5-109, MCA, is amended to read:

20 "80-5-109. Testing of submitted samples. The grain-and  
21 seed laboratory shall analyze any official seed samples  
22 taken from seed lots offered for sale in the state and or  
23 submitted by the department using methods such as those  
24 established under the Federal Seed Act and the procedural  
25 guidelines developed by the association of official seed

1 analysts."

2 Section 9. Section 80-5-110, MCA, is amended to read:

3 "80-5-110. Laboratory testing of samples -- fees. Any  
4 citizen of this state may request the grain--and seed  
5 laboratory to examine, analyze, and test samples of seed  
6 upon payment of the fee and compliance with rules governing  
7 the submission of seed samples for such service. Samples of  
8 seed analyzed and tested shall be charged for at rates  
9 determined jointly established by the rule of the department  
10 and the director of the grain--and--seed--laboratory as  
11 recommended by the agricultural experiment station. All fees  
12 collected by the grain-and seed laboratory shall be used to  
13 defray the expenses incurred by the laboratory under  
14 ~~80-5-101~~ 80-5-102 through 80-5-113."

15 Section 10. Section 80-5-111, MCA, is amended to read:

16 "80-5-111. Certificate of test presumptive evidence.  
17 The certificate of the grain--and seed laboratory, giving  
18 results of any examinations, analyses, or tests of any seed  
19 samples made under the authority of the department, is  
20 presumptive evidence of the correctness of the facts stated  
21 in it."

22 Section 11. Section 80-5-112, MCA, is amended to read:

23 "80-5-112. Enforcement -- rules. The department shall  
24 administer and enforce ~~80-5-101~~ 80-5-102 through 80-5-113.  
25 For that purpose, the department may adopt rules. The

1 department may issue and enforce a written or printed "stop  
 2 sale" order to the owner or custodian of any lot of  
 3 agricultural seed which the department finds in violation of  
 4 ~~80-5-101~~ 80-5-102 through 80-5-113. The order shall prohibit  
 5 further sale of the seed until the department has evidence  
 6 that the law has been complied with. The seed may not be  
 7 confiscated or destroyed. Upon proper correction, by  
 8 reconditioning, labeling, or otherwise, and when, in the  
 9 judgment of the department, the requirements of ~~80-5-101~~  
 10 80-5-102 through 80-5-113 have been met, the stop sale order  
 11 shall be lifted and the seed may be sold. The department  
 12 shall adopt all necessary rules relating to the agricultural  
 13 experiment station's duties under ~~80-5-101~~ 80-5-102 through  
 14 80-5-113."

15 Section 12. Section 80-5-113, MCA, is amended to read:

16 "80-5-113. Penalty. Any person, firm, or corporation  
 17 which sells or offers or exposes for sale or distribution in  
 18 the state any ~~agricultural seeds~~ seed for seeding purposes  
 19 without complying with the requirements of ~~80-5-101~~ 80-5-102  
 20 through 80-5-113 is guilty of a misdemeanor and upon  
 21 conviction shall be fined not less than \$100 or more than  
 22 \$300 plus costs of such prosecution and upon conviction of  
 23 the second or any subsequent offense shall be fined not less  
 24 than \$500 or more than \$1,000 plus costs of such  
 25 prosecution."

1 Section 13. Section 80-5-202, MCA, is amended to read:

2 "80-5-202. Licensing ~~---issuance -- application -- fee~~  
 3 ~~---bonding---insurance.~~ (1) All seed conditioning plants  
 4 ~~and seed labelers~~ shall obtain a license from the department  
 5 for each plant before doing business in this state; however,  
 6 a Montana ~~--certified~~ seed grower, when conditioning or  
 7 ~~labeling-certified~~ seed from his own production, is not  
 8 required to be licensed under this part. ~~Bin-run seed sales~~  
 9 ~~from one farmer to another are exempt from this part.~~

10 ~~(2) All licenses are issued on a fiscal year basis and~~  
 11 ~~expire on June 30 of each year.~~

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

24 (2) Each conditioning plant must post in a conspicuous  
 25 location in the facility:

1       (a) its fees for conditioning services; and  
 2       (b) the license designation for the facility.  
 3       (3) All seed labelers and growers who label or affix  
 4       written claims to their seed shall obtain a license from the  
 5       department before doing business in Montana. The following  
 6       persons, however, are excluded from the licensing  
 7       requirements under this subsection:  
 8           (a) a Montana certified seed grower when labeling  
 9           certified seed from his own production; and  
 10          (b) any person who updates germination test data by  
 11          affixing to the package of seed a supplemental label bearing  
 12          new germination data, the lot number, and his name and  
 13          address.  
 14          (4) No person may sell or distribute seed in Montana  
 15          without obtaining a seed dealer's license from the  
 16          department for each place where seed is located, except for:  
 17           (a) a person who distributes seed only in sealed  
 18           packages of 10 pounds or less that are properly labeled;  
 19           (b) a Montana certified seed grower when selling  
 20           certified seed from his own production; and  
 21           (c) a person GRAIN PRODUCER when making bin-run seed  
 22           sales.  
 23          (5) Each person selling seed from a location other  
 24          than the licensed place must be listed on the application  
 25          for license.

1           (6) The department shall set by rule the period for  
 2           which a license is issued under this section.  
 3           ~~(4)~~(7) The department may establish by rule minimum  
 4           standards for equipment and handling procedures for  
 5           facilities to be licensed ~~and--may--carry--out--inspections~~  
 6           ~~during--normal--business--hours--to--determine--that--these~~  
 7           ~~standards--are--being--adhered--to.~~  
 8           ~~(5)~~(8) Each license shall cost no more than \$50 a  
 9           year. The fee must include the cost of application for a  
 10          license and must be nonrefundable. The department may by  
 11          rule establish license fees which bear a reasonable  
 12          relationship to the cost of administering this part.  
 13          ~~(6)--Failure--on--the--part--of--a--licensee--to--comply--with~~  
 14          ~~the--rules--issued--under--the--authority--of--this--section--is~~  
 15          ~~sufficient--cause--for--cancellation--of--a--license--by--the~~  
 16          ~~department,--provided--the--licensee--is--given--a--reasonable~~  
 17          ~~opportunity--to--correct--inadvertent--and--nonrecurring~~  
 18          ~~deficiencies.~~  
 19          (9) An application for a license under this section  
 20          must be made in a manner and on forms provided by the  
 21          department. Such application must contain among other  
 22          things:  
 23           (a) the location of each seed conditioning plant if  
 24           the application is for a seed conditioning plant license;  
 25           (b) a sample label if the application is for a seed

1 labeler license; and  
 2 (c) a list of persons selling seed if the application  
 3 is for a seed dealer's license."

4 Section 14. Section 80-5-204, MCA, is amended to read:  
 5 "80-5-204. Screenings -- restrictions on movements.  
 6 All screenings whether from seed conditioning plants or  
 7 other sources represent both a valuable and potentially  
 8 hazardous product. Their movements are restricted as  
 9 follows:

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

17 (2) The department ~~has--authority-to-issue~~ may adopt  
 18 rules to restrict or exempt from restriction the holding and  
 19 movement of screenings when the public interest is served by  
 20 so doing."

21 Section 15. Section 80-5-205, MCA, is amended to read:  
 22 "80-5-205. Violations. The following acts caused  
 23 within the state of Montana are prohibited:

24 (1) the failure or refusal to obtain a license as  
 25 required in 80-5-202 and ~~80-5-203~~;

1 (2) the misbranding or mislabeling of ~~agricultural~~  
 2 ~~seeds~~ seed;

3 (3) the violation or failure to comply with rules  
 4 issued under the authority of this part."

5 Section 16. Section 80-5-207, MCA, is amended to read:

6 "80-5-207. Violation -- cancellation of license --  
 7 enforcement proceedings. (1) ~~The department may cancel any~~  
 8 ~~license issued by it when the provisions of this part have~~  
 9 ~~been violated by the holder of the license.~~ Distribution of  
 10 seeds that are not legally labeled or failure to comply with  
 11 this chapter or rules issued under its authority constitutes  
 12 sufficient grounds for the department to cancel or deny a  
 13 license to a licensee, provided that the licensee is given a  
 14 reasonable opportunity to correct inadvertent and  
 15 nonrecurring deficiencies.

16 (2) Any person convicted of violating the provisions  
 17 of this part or rules promulgated under the authority of  
 18 this part is guilty of a misdemeanor and shall be fined not  
 19 less than \$100 or more than \$300 for the first violation and  
 20 not less than \$500 or more than \$1,000 for each subsequent  
 21 violation.

22 (3) Nothing in this part shall be construed as  
 23 requiring the department or its representatives to report  
 24 violations of this part when it believes that the public  
 25 interest will be best served by a suitable notice of

1 warning.

2 (4) It is the duty of each county attorney to whom any  
3 violation is reported to cause appropriate proceedings to be  
4 instituted and prosecuted in a court of competent  
5 jurisdiction without delay.

6 (5) The department is authorized to apply for and the  
7 court to grant a temporary or permanent injunction  
8 restraining any person from violating or continuing to  
9 violate any of the provisions of this part or any rule  
10 promulgated under this part notwithstanding the existence of  
11 other remedies at law. An injunction is issued without bond.

12 (6) Any person adversely affected by an act, order, or  
13 ruling made pursuant to the provisions of this part may  
14 within 30 days bring action in the district court of the  
15 county or any county where the alleged violation occurred  
16 for trial of the issues bearing upon such act."

17 NEW SECTION. Section 17. Inspection. To enforce this  
18 chapter, the department may enter, at reasonable times, any  
19 public or private premises, including any vehicle of  
20 transport, and upon entry to the premises, the department  
21 may obtain samples, examine seeds and labels, inspect  
22 equipment, and review records relating to distribution of  
23 seed in Montana. The department may take any sample of seeds  
24 as may be required; however, the department shall pay, upon  
25 request, the firm current market value for each sample.

1 NEW SECTION. Section 18. Publication of reports. The  
2 department may publish the names and addresses of persons  
3 licensed under this chapter.

4 NEW SECTION. Section 19. Repealer. Sections 80-5-101,  
5 80-5-106, 80-5-201, and 80-5-203, MCA, are repealed.

6 NEW SECTION. Section 20. Extension of authority. Any  
7 existing authority of the department of agriculture to make  
8 rules on the subject of the provisions of this act is  
9 extended to the provisions of this act.

10 NEW SECTION. SECTION 21. CODIFICATION INSTRUCTION.  
11 SECTIONS 1, 17, AND 18 ARE INTENDED TO BE CODIFIED AS AN  
12 INTEGRAL PART OF TITLE 80, CHAPTER 5, AND THE PROVISIONS OF  
13 TITLE 80, CHAPTER 5, APPLY TO SECTIONS 1, 17, AND 18.

14 NEW SECTION. Section 22. Effective dates. (1) Section  
15 20 and this section are effective on passage and approval,  
16 except rules adopted by the department may not take effect  
17 until October 1, 1987.

18 (2) The remaining sections of this act are effective  
19 October 1, 1987.

-End-

STANDING COMMITTEE REPORT

Comm. on Agriculture,  
Livestock & Irrigation

Page 2 of 2  
HB 220

March 13 1987

SENATE

March 13 1987

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration HOUSE BILL No. 220

Third reading copy (blue color)

GENERALLY REVISE THE AGRICULTURAL SEED LAWS

DEMARS (BECK)

Respectfully report as follows That HOUSE BILL No. 220

be amended as follows:

- 1. Statement of Intent:  
Page 1, line 18.  
Strike: "annual and"
- 2. Page 4, line 19.  
Strike: "(a)"
- 3. Page 4, line 20.  
Strike: "and other noxious weeds"  
Insert: "plants"
- 4. Page 5, line 1.  
Strike: "(i)"  
Insert: "(a)"  
Strike: "and"
- 5. Page 5, line 2.  
Strike: "(ii)"  
Insert: "(b)"  
Strike: "."  
Insert: "; and"
- 6. Page 5, lines 3 through 5.  
Strike: subsection (b) in its entirety  
Insert: "(c) plants that are designated by rule of the department as prohibited noxious weeds."

7. Page 10, line 25.  
Strike: "under 80-5-105"  
Insert: "by rule"

8. Page 23, line 18.  
Strike: "person"  
Insert: "grain producer"

9. Page 28.  
Following: line 5  
Insert: "NEW SECTION. Section 21. Codification instruction. Sections 1, 17, and 18 are intended to be codified as an integral part of Title 80, chapter 5, and the provisions of Title 80, chapter 5, apply to sections 1, 17, and 18."  
Renumber: subsequent section

XXXXXX

XXXXXXXXXX

CONTINUED

P1-13

Chairman

9/14/57  
11/4/57  
JK

AND AS AMENDED,  
BE CONCURRED IN

  
PAUL R. BOYLAN, Chairman