HOUSE BILL NO. 822

INTRODUCED BY HANNAH, KOEHNKE

IN THE HOUSE

FEBRUARY 13, 1987	ON MOTION, RULES SUSPENDED TO ALLOW INTRODUCTION OF HB NO. 822.
FEBRUARY 18, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
FEBRUARY 20, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
FEBRUARY 21, 1987	PRINTING REPORT.
FEBRUARY 23, 1987	SECOND READING, DO PASS.
FEBRUARY 24, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 98; NOES, 1.
	TRANSMITTED TO SENATE.
	IN THE SENATE
MARCH 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
MARCH 12, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1987	SECOND READING, CONCURRED IN.
MARCH 19, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 19, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1	House BILL NO. 122
2	INTRODUCED BY Dano Frehale
1	

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE

DEPARTMENT OF AGRICULTURE TO ADOPT RULES AUTHORIZING THE

EQUIVALENT OF SURETY BONDS TO BE POSTED BY PRODUCE

WHOLESALERS AND ITINERANT MERCHANTS; AMENDING SECTIONS

8 80-3-603 AND 80-3-705, MCA; AND PROVIDING AN IMMEDIATE

PEFFECTIVE DATE."

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

12 Section 1. Section 80-3-603, MCA, is amended to read:

"80-3-603. Application for license -- bond --

14 expiration date. (1) Licenses to engage in the business of a

15 dealer at wholesale in this state shall be issued by the

department to reputable persons who apply for a license and

pay the prescribed fee.

(2) The application shall be in writing, accompanied by the prescribed fee, and under oath. It shall state:

- 20 (a) the place where the applicant intends to carry on
- 21 the business for which the license is desired;
- 22 (b) the estimated amount of business to be done
- 23 monthly:
- 24 (c) the full names of the persons constituting the
- 25 firm, if the applicant is a partnership;



- (d) the names of the officers and the place of incorporation, if the applicant is a corporation; and
- (e) a financial statement showing in a general way the value and character of the assets and the amount of liabilities of the applicant.
- (3) Before issuing a license, the department shall require the applicant to file with it a bond or its equivalent, as established by the department by rule, to the state in an amount to be fixed by the department based on 9 the monthly business to be transacted by the applicant. The 10 bond or its equivalent may not be for less than \$1,000. The 11 department may require, under penalty of revoking the 12 license, additional bond or its equivalent if the business 13 transacted warrants an increase. The bond or its equivalent 14 shall cover all wholesale produce business transacted in 15 this state. The bond shall be executed by the applicant as 16 principal and a surety company authorized to do business in 17 the state as surety. The form of the bond or its equivalent 18 shall be fixed by the department, conditioned upon: 19
- 20 (a) faithful performance of his duties as a dealer at 21 wholesale;
- (b) observance of all laws relating to the business of a dealer at wholesale;
- 24 (c) payment, when due, of the purchase price of 25 produce purchased by him;

- 1 (d) the prompt reporting of sales as required by law
 2 to all persons consigning produce to the dealer as licensee
 3 for sale on commission; and
- 4 (e) the prompt payment to persons entitled to the 5 proceeds of the sales less lawful charges, disbursements, 6 and commissions.
- 7 (4) All licenses expire December 31 of each year. The 8 license or a certified copy of the license shall be kept 9 posted in the office of the licensee at each place in this 10 state where he transacts business. The fee for each license 11 is \$100 and for each certified copy of a license, \$1. If a 12 truck is the place of business, the license fee for the 13 first truck is \$100 and for each additional truck, \$50.
 - (5) A separate license is required for each place of business. Each truck used for assembling and distributing produce, other than from a permanently established place of business through which all business of sales and accounts is handled, is a separate place of business and must be licensed."

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Section 2. Section 80-3-705, MCA, is amended to read:
"80-3-705. Surety bond. A license may not be issued
until the applicant has filed a surety bond or its
equivalent, as established by the department by rule, issued
by a company authorized to do business in the state. The
bond or its equivalent must first be approved by the

department and shall be for not less than \$1,000. The bond
or its equivalent shall be in a form prescribed by the
department and shall be conditioned upon the delivery of
honest weights, measures, or grades; accurate representation
as to quality or class of produce; the actual payment of
checks, drafts, or other obligations delivered by the
itinerant merchant in exchange for the purchase of produce;
and the payment of all other obligations incurred by him."

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

-End-

APPROVED BY COMMITTEE ON AGRICULTURE LIVESTOCK & IRRIGATION

1	STATEMENT OF INTENT
2	HOUSE BILL 822
3	House Agriculture, Livestock,
4	and Irrigation Committee
5	
6	A statement of intent is required for this bill because
7	it authorizes the department of agriculture to adopt rule
8	establishing the equivalent of surety bonds to be posted by
9	produce wholesalers and itinerant merchants. It is the
10	intent of the legislature that the rules be similar to those
11	adopted for establishing equivalents to surety bonds for
12	commodity dealers under 80-4-604.



1	HOUSE BILL NO. 822
2	INTRODUCED BY HANNAH, KOEHNKE
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
5	DEPARTMENT OF AGRICULTURE TO ADOPT RULES AUTHORIZING THE
6	EQUIVALENT OF SURETY BONDS TO BE POSTED BY PRODUCE
7	WHOLESALERS AND ITINERANT MERCHANTS; AMENDING SECTIONS
8	80-3-603 AND 80-3-705, MCA; AND PROVIDING AN IMMEDIATE
9	EFFECTIVE DATE."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 80-3-603, MCA, is amended to read:
13	"80-3-603. Application for license bond
14	expiration date. (1) Licenses to engage in the business of a
15	dealer at wholesale in this state shall be issued by the
16	department to reputable persons who apply for a license and
17	pay the prescribed fee.
18	(2) The application shall be in writing, accompanied
19	by the prescribed fee, and under oath. It shall state:
20	(a) the place where the applicant intends to carry on
21	the business for which the license is desired;
22	(b) the estimated amount of business to be done
23	monthly;
24	(c) the full names of the persons constituting the
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firm, if the applicant is a partnership;

- 1 (d) the names of the officers and the place of 2 incorporation, if the applicant is a corporation; and
- 3 (e) a financial statement showing in a general way the 4 value and character of the assets and the amount of 5 liabilities of the applicant.
- (3) Before issuing a license, the department shall 6 require the applicant to file with it a bond or its equivalent, as established by the department by rule, to the state in an amount to be fixed by the department based on 10 the monthly business to be transacted by the applicant. The bond or its equivalent may not be for less than \$1,000. The 11 12 department may require, under penalty of revoking the license, additional bond or its equivalent if the business 13 14 transacted warrants an increase. The bond or its equivalent shall cover all wholesale produce business transacted in 15 this state. The bond shall be executed by the applicant as 16 17 principal and a surety company authorized to do business in the state as surety. The form of the bond or its equivalent 18 shall be fixed by the department, conditioned upon: 19
- 20 (a) faithful performance of his duties as a dealer at 21 wholesale;
- 22 (b) observance of all laws relating to the business of 23 a dealer at wholesale;
- 24 (c) payment, when due, of the purchase price of 25 produce purchased by him;

(d) the prompt reporting of sales as required by law to all persons consigning produce to the dealer as licensee for sale on commission; and

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- (e) the prompt payment to persons entitled to the proceeds of the sales less lawful charges, disbursements, and commissions.
- (4) All licenses expire December 31 of each year. The license or a certified copy of the license shall be kept posted in the office of the licensee at each place in this state where he transacts business. The fee for each license is \$100 and for each certified copy of a license, \$1. If a truck is the place of business, the license fee for the first truck is \$100 and for each additional truck, \$50.
- (5) A separate license is required for each place of business. Each truck used for assembling and distributing produce, other than from a permanently established place of business through which all business of sales and accounts is handled, is a separate place of business and must be licensed."
- Section 2. Section 80-3-705, MCA, is amended to read:
 "80-3-705. Surety bond. A license may not be issued
 until the applicant has filed a surety bond or its
 equivalent, as established by the department by rule, issued
 by a company authorized to do business in the state. The
 bond or its equivalent must first be approved by the

department and shall be for not less than \$1,000. The bond or its equivalent shall be in a form prescribed by the department and shall be conditioned upon the delivery of honest weights, measures, or grades; accurate representation as to quality or class of produce; the actual payment of checks, drafts, or other obligations delivered by the itinerant merchant in exchange for the purchase of produce; and the payment of all other obligations incurred by him."

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

-End-

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3	House Agriculture, Livestock,
4	and Irrigation Committee
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STATEMENT OF INTENT



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*80-3-603. Application for license -- bond --

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department to reputable persons who apply for a license and

- pay the prescribed fee.
- (2) The application shall be in writing, accompanied by the prescribed fee, and under oath. It shall state:
- (a) the place where the applicant intends to carry on the business for which the license is desired;
- 22 (b) the estimated amount of business to be done
 23 monthly;
- 24 (c) the full names of the persons constituting the 25 firm, if the applicant is a partnership;

- (d) the names of the officers and the place of incorporation, if the applicant is a corporation; and
- (e) a financial statement showing in a general way the value and character of the assets and the amount of liabilities of the applicant.
- (3) Before issuing a license, the department shall require the applicant to file with it a bond or its equivalent, as established by the department by rule, to the state in an amount to be fixed by the department based on the monthly business to be transacted by the applicant. The bond or its equivalent may not be for less than \$1,000. The department may require, under penalty of revoking the license, additional bond or its equivalent if the business transacted warrants an increase. The bond or its equivalent shall cover all wholesale produce business transacted in this state. The bond shall be executed by the applicant as principal and a surety company authorized to do business in the state as surety. The form of the bond or its equivalent shall be fixed by the department, conditioned upon:
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- Section 2. Section 80-3-705, MCA, is amended to read:

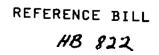
 "80-3-705. Surety bond. A license may not be issued until the applicant has filed a surety bond or its equivalent, as established by the department by rule, issued by a company authorized to do business in the state. The bond or its equivalent must first be approved by the

department and shall be for not less than \$1,000. The bond 1 or its equivalent shall be in a form prescribed by the 2 department and shall be conditioned upon the delivery of 3 honest weights, measures, or grades; accurate representation as to quality or class of produce; the actual payment of 5 checks, drafts, or other obligations delivered by the 6 itinerant merchant in exchange for the purchase of produce; 7 and the payment of all other obligations incurred by him." 8 NEW SECTION. Section 3. Effective date. This act is 9 effective on passage and approval. 10

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HB 0822/si

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- (d) the prompt reporting of sales as required by law to all persons consigning produce to the dealer as licensee for sale on commission; and
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-End-

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