

IN THE HOUSE

MARCH 19, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 House BILL NO. 822
2 INTRODUCED BY David Frehne

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 WHOLESALE AND ITINERANT MERCHANTS; AMENDING SECTIONS
8 80-3-603 AND 80-3-705, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE."

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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
25 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

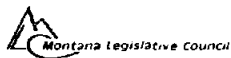
3 (e) a financial statement showing in a general way the
4 value and character of the assets and the amount of
5 liabilities of the applicant.

6 (3) Before issuing a license, the department shall
7 require the applicant to file with it a bond or its
8 equivalent, as established by the department by rule, to the
9 state in an amount to be fixed by the department based on
10 the monthly business to be transacted by the applicant. The
11 bond or its equivalent may not be for less than \$1,000. The
12 department may require, under penalty of revoking the
13 license, additional bond or its equivalent if the business
14 transacted warrants an increase. The bond or its equivalent
15 shall cover all wholesale produce business transacted in
16 this state. The bond shall be executed by the applicant as
17 principal and a surety company authorized to do business in
18 the state as surety. The form of the bond or its equivalent
19 shall be fixed by the department, conditioned upon:

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;



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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.

14 (5) A separate license is required for each place of
15 business. Each truck used for assembling and distributing
16 produce, other than from a permanently established place of
17 business through which all business of sales and accounts is
18 handled, is a separate place of business and must be
19 licensed."

20 Section 2. Section 80-3-705, MCA, is amended to read:

21 "80-3-705. Surety bond. A license may not be issued
22 until the applicant has filed a surety bond or its
23 equivalent, as established by the department by rule, issued
24 by a company authorized to do business in the state. The
25 bond or its equivalent must first be approved by the

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

SECOND READING
HB 822

HOUSE BILL NO. 822

INTRODUCED BY HANNAH, KOEHNKE

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 80-3-603 AND 80-3-705, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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(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;

(b) the estimated amount of business to be done monthly;

(c) the full names of the persons constituting the 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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