

HOUSE BILL NO. 137

INTRODUCED BY DEMARS, STEPPLER, SCHYE, WESTLAKE, GRADY,  
STRIZICH, WHALEN, WILLIAMS

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

IN THE HOUSE

JANUARY 12, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
JANUARY 13, 1989	FIRST READING.
JANUARY 20, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 21, 1989	PRINTING REPORT.
JANUARY 23, 1989	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
JANUARY 24, 1989	SECOND READING, DO PASS AS AMENDED.
JANUARY 25, 1989	ENGROSSING REPORT.
JANUARY 26, 1989	THIRD READING, PASSED. AYES, 93; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 27, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
FEBRUARY 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 11, 1989	SECOND READING, CONCURRED IN.
FEBRUARY 14, 1989	THIRD READING, CONCURRED IN. AYES, 46; NOES, 1.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 15, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 137  
 2 INTRODUCED BY Erin Peters Stephan Lohr  
 3 Woodlake BY REQUEST OF THE DEPARTMENT OF AGRICULTURE  
 4 Brandy Whalen

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING  
 6 COMMERCIAL FEED LAWS; SPECIFYING LICENSE PERIODS;  
 7 ESTABLISHING RENEWAL DEADLINES; INCREASING CERTAIN FEE  
 8 PROVISIONS; AMENDING SECTIONS 80-9-201 AND 80-9-206, MCA;  
 9 AND PROVIDING AN EFFECTIVE DATE."  
 10

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

12 **Section 1.** Section 80-9-201, MCA, is amended to read:

13 **"80-9-201. Permits and registration.** (1) (a) No person  
 14 may manufacture for distribution or distribute a commercial  
 15 feed in this state unless he has obtained a permit by filing  
 16 with the department, on forms provided by the department,  
 17 his name, place of business, and location of manufacturing  
 18 facility, distribution point, or point of invoicing. All new  
 19 applicants or those failing to renew a permit by January 1  
 20 of each year ~~The applicant~~ shall pay a nonrefundable fee of  
 21 \$25 ~~\$50~~ per calendar year for each facility, distribution  
 22 point, or point of invoicing. A permit will remain in force  
 23 until the end of the calendar year for which it is issued or  
 24 until canceled by the permit holder or canceled for cause by  
 25 the department. No refund may be made at the time of

1 cancellation. No transfer of permits will be made. A  
 2 distributor who distributes only pet foods or specialty pet  
 3 foods is exempt from this provision.

4 (b) Feed permit renewals received by the department  
 5 prior to January 1 of each year must be accompanied by a  
 6 nonrefundable renewal fee of \$25 for each permit.

7 (2) (a) No person may distribute in this state a  
 8 commercial feed, except a custom-mixed feed, which has not  
 9 been registered under this section by the manufacturer. The  
 10 application for registration ~~shall~~ must be accompanied by a  
 11 nonrefundable fee of \$5 plus 10 times the inspection fee set  
 12 by the department in 80-9-206(1)(a) for each product other  
 13 than a pet food or specialty pet food and a nonrefundable  
 14 fee of \$25 each for each pet food or specialty pet food.

15 (b) The registration of commercial feeds and specialty  
 16 pet food is for a period of 1 year commencing October 1 and  
 17 ending September 30 of each year.

18 (3) An applicant for registration shall file with the  
 19 department the following information:

20 (a) his name and address;  
 21 (b) a complete copy of the label or label facsimile  
 22 that will appear on the product;  
 23 (c) when requested by the department, promotional  
 24 material and claims made about the product; and  
 25 (d) any other necessary information requested by the

department.

~~{4}--Upon approval by the department, a certificate of registration shall be continuous, provided that the annual fee is paid not later than December 31 of each year.~~

{5}{4} The department may refuse registration of any commercial feed not in compliance with this chapter and may cancel any registration subsequently found not to be in compliance with this chapter. No registration may be refused or canceled unless the registrant has been given an opportunity to be heard before the department and to amend his application in order to comply with this chapter."

**Section 2.** Section 80-9-206, MCA, is amended to read:

"80-9-206. Inspection fees -- filing of annual statement. (1) An inspection fee shall be paid on all commercial feeds, including custom-mix feeds, except pet foods and specialty pet foods, distributed in this state as follows:

(a) The inspection fee shall be set at ~~10 cents per ton~~ by rule on a cents-per-ton basis, except that the first 10 tons are exempt. However, ~~after May 1, 1975,~~ the The department may adjust the fee by rule to adequately fund the administration of this chapter. Adjustments shall be made only after holding a public hearing on the proposed changes as required in 80-9-103 and shall remain within the limits of 5 cents to 25 cents per ton. The effective date of any

such rule adjusting fees will be January 1 of the calendar year following the issuance of such rule. All permit holders are to be notified immediately of any changes in fees.

(b) The feed manufacturer ~~shall have~~ has primary responsibility for paying inspection fees. However, the distributor ~~shall be held is~~ is responsible for inspection fees if the manufacturer has not paid them.

(c) Inspection fees shall be paid on each commercial feed, including custom-mix feeds and feed ingredients that are defined as commercial feeds even though they are used in the manufacture of other commercial feeds. However, premixes prepared and used within a feed plant are exempt but not premixes or ingredients transferred from one plant to another even within the same organization.

(d) A person producing a commercial feed with a feed mixing plant at a feed lot, poultry, swine, or dairy operation ~~shall may~~ may not be required to pay inspection fees on the commercial feeds produced and used in his feeding operation at the site, but he will be responsible for any unpaid inspection fees on commercial feed purchased by him and on any commercial feed he produces and distributes other than in his feeding operations at the site.

(2) Each person who holds a permit as required in 80-9-201(1) shall:

(a) file, not later than ~~February 28~~ January 31 of

1 each year, an annual statement setting forth the number of  
 2 tons of commercial feeds distributed in this state during  
 3 the preceding calendar year (January 1 through December 31)  
 4 and upon filing such a statement shall pay the inspection  
 5 fee at the rate stated in subsection (1) of this section.  
 6 Inspection fees which have not been remitted to the  
 7 department ~~within 15 days following~~ before the due date  
 8 January 31 shall have a penalty fee of 10% with a minimum of  
 9 \$10 added to the amount due. The assessment of this penalty  
 10 fee does not prevent the department from taking other action  
 11 as provided in this chapter.

12 (b) keep those records which are necessary or are  
 13 required by the department to indicate accurately the  
 14 tonnage of commercial feed distributed in this state. The  
 15 department may examine the records to verify statements of  
 16 tonnage.

17 (c) make accurate and prompt reports as required.  
 18 Failure to do so is sufficient cause for the department to  
 19 cancel or refuse to reissue a permit."

20 NEW SECTION. Section 3. Extension of authority. Any  
 21 existing authority to make rules on the subject of the  
 22 provisions of [this act] is extended to the provisions of  
 23 [this act].

24 NEW SECTION. Section 4. Severability. If a part of  
 25 [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this  
 2 act] is invalid in one or more of its applications, the part  
 3 remains in effect in all valid applications that are  
 4 severable from the invalid applications.

5 NEW SECTION. Section 5. Reregistration requirements.  
 6 All commercial feeds registered on or before [the effective  
 7 date of this act] must be registered for the upcoming year  
 8 by October 1, 1989.

9 NEW SECTION. Section 6. Effective date. [This act] is  
 10 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB137, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB137 revises and clarifies commercial feed permit renewal deadlines and fees, increasing the fee for new applicants and for those who fail to renew for three months from \$25 to \$50, and revising inspection fees from 10 cents per ton to an amount set by rule within the limits 5 cents to 25 cents per ton with the first ten tons exempt.

ASSUMPTIONS:

1. The number of feed products currently registered will remain constant.
2. Tonnage fees will remain constant by exempting the first ten tons.
3. Most companies will cease submitting late applications due to the penalty for late renewals.
4. The number of new commercial feed applicants will be negligible.

FISCAL IMPACT: None

*Ray Shackleford*

RAY/SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

*1/18/89*

DATE

*Gene Demars*

GENE DEMARS, PRIMARY SPONSOR

*1-18-89*

DATE

Fiscal Note for HB137, as introduced

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

HOUSE BILL NO. 137

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STRIZICH, WHALEN, WILLIAMS

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING  
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ESTABLISHING RENEWAL DEADLINES; INCREASING CERTAIN FEE  
PROVISIONS; AND AMENDING SECTIONS 80-9-201 AND 80-9-206,  
MCA;--AND-PROVIDING-AN-EFFECTIVE-DATE."

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**Section 1.** Section 80-9-201, MCA, is amended to read:

"80-9-201. Permits and registration. (1) (a) No person  
may manufacture for distribution or distribute a commercial  
feed in this state unless he has obtained a permit by filing  
with the department, on forms provided by the department,  
his name, place of business, and location of manufacturing  
facility, distribution point, or point of invoicing. All new  
applicants or those failing to renew a permit by January 1  
of each year The applicant shall pay a nonrefundable fee of  
\$25 \$50 per calendar year for each facility, distribution  
point, or point of invoicing. A permit will remain in force  
until the end of the calendar year for which it is issued or  
until canceled by the permit holder or canceled for cause by

the department. No refund may be made at the time of  
cancellation. No transfer of permits will be made. A  
distributor who distributes only pet foods or specialty pet  
foods is exempt from this provision.

(b) Feed permit renewals received by the department  
prior to January 1 of each year must be accompanied by a  
nonrefundable renewal fee of \$25 for each permit.

(2) (a) No person may distribute in this state a  
commercial feed, except a custom-mixed feed, which has not  
been registered under this section by the manufacturer. The  
application for registration ~~shall~~ must be accompanied by a  
nonrefundable fee of \$5 plus 10 times the inspection fee set  
by the department in 80-9-206(1)(a) for each product other  
than a pet food or specialty pet food and a nonrefundable  
fee of \$25 ~~each~~ for each pet food or specialty pet food.

(b) The registration of commercial feeds and specialty  
pet food is for a period of 1 year commencing October 1 and  
ending September 30 of each year.

(3) An applicant for registration shall file with the  
department the following information:

(a) his name and address;

(b) a complete copy of the label or label facsimile  
that will appear on the product;

(c) when requested by the department, promotional  
material and claims made about the product; and

(d) any other necessary information requested by the department.

~~{4}--Upon approval by the department, a certificate of registration shall be continuous, provided that the annual fee is paid not later than December 31 of each year.~~

{5}(4) The department may refuse registration of any commercial feed not in compliance with this chapter and may cancel any registration subsequently found not to be in compliance with this chapter. No registration may be refused or canceled unless the registrant has been given an opportunity to be heard before the department and to amend his application in order to comply with this chapter."

**Section 2.** Section 80-9-206, MCA, is amended to read:

"80-9-206. Inspection fees -- filing of annual statement. (1) An inspection fee shall be paid on all commercial feeds, including custom-mix feeds, except pet foods and specialty pet foods, distributed in this state as follows:

(a) The inspection fee shall be set ~~at 10 cents per ton by rule on a cents-per-ton basis~~, except that the first 10 tons are exempt. However, after May 1, 1975, the department may adjust the fee by rule to adequately fund the administration of this chapter. Adjustments shall be made only after holding a public hearing on the proposed changes as required in 80-9-103 and shall remain within the limits

of 5 cents to 25 cents per ton. The effective date of any such rule adjusting fees will be January 1 of the calendar year following the issuance of such rule. All permit holders are to be notified immediately of any changes in fees.

(b) The feed manufacturer ~~shall have~~ has primary responsibility for paying inspection fees. However, the distributor ~~shall be held~~ is responsible for inspection fees if the manufacturer has not paid them.

(c) Inspection fees shall be paid on each commercial feed, including custom-mix feeds and feed ingredients that are defined as commercial feeds even though they are used in the manufacture of other commercial feeds. However, premixes prepared and used within a feed plant are exempt but not premixes or ingredients transferred from one plant to another even within the same organization.

(d) A person producing a commercial feed with a feed mixing plant at a feed lot, poultry, swine, or dairy operation ~~shall~~ may not be required to pay inspection fees on the commercial feeds produced and used in his feeding operation at the site, but he will be responsible for any unpaid inspection fees on commercial feed purchased by him and on any commercial feed he produces and distributes other than in his feeding operations at the site.

(2) Each person who holds a permit as required in 80-9-201(1) shall:

1 (a) file, not later than ~~February-28~~ January 31 of  
 2 each year, an annual statement setting forth the number of  
 3 tons of commercial feeds distributed in this state during  
 4 the preceding calendar year (January 1 through December 31)  
 5 and upon filing such a statement shall pay the inspection  
 6 fee at the rate stated in subsection (1) of this section.  
 7 Inspection fees which have not been remitted to the  
 8 department ~~within-15-days--following~~ before the--due--date  
 9 January 31 shall have a penalty fee of 10% with a minimum of  
 10 \$10 added to the amount due. The assessment of this penalty  
 11 fee does not prevent the department from taking other action  
 12 as provided in this chapter.

13 (b) keep those records which are necessary or are  
 14 required by the department to indicate accurately the  
 15 tonnage of commercial feed distributed in this state. The  
 16 department may examine the records to verify statements of  
 17 tonnage.

18 (c) make accurate and prompt reports as required.  
 19 Failure to do so is sufficient cause for the department to  
 20 cancel or refuse to reissue a permit."

21 NEW SECTION. Section 3. Extension of authority. Any  
 22 existing authority to make rules on the subject of the  
 23 provisions of [this act] is extended to the provisions of  
 24 [this act].

25 NEW SECTION. Section 4. Severability. If a part of

1 [this act] is invalid, all valid parts that are severable  
 2 from the invalid part remain in effect. If a part of [this  
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6 NEW SECTION. Section 5. Reregistration requirements.  
 7 All commercial feeds registered on or before [the effective  
 8 date of this act] must be registered for the upcoming year  
 9 by October 1, 1989.

10 ~~NEW SECTION. Section 6. Effective date. [This act]~~  
 11 ~~is effective July 17, 1989.~~

-End-

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2 INTRODUCED BY DEMARS, STEPPLER, SCHYE, WESTLAKE, GRADY,

3 STRIZICH, WHALEN, WILLIAMS

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21 of each year ~~The applicant~~ shall pay a nonrefundable fee of  
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11 application for registration ~~shall~~ must be accompanied by a  
12 nonrefundable fee of ~~\$5-plus-10-times-the-inspection-fee-set~~  
13 ~~by--the--department-in-80-9-206(1)(a)~~ \$6.50 for each product  
14 other than a pet food or specialty pet food and a  
15 nonrefundable fee of \$25 ~~each~~ for each pet food or specialty  
16 pet food.

17 (b) The registration of commercial feeds and specialty  
18 pet food is for a period of 1 year commencing October 1 and  
19 ending September 30 of each year.

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21 department the following information:

22 (a) his name and address;

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material and claims made about the product; and

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~~(4) Upon approval by the department, a certificate of registration shall be continuous, provided that the annual fee is paid not later than December 31 of each year.~~

~~(4)~~ (4) The department may refuse registration of any commercial feed not in compliance with this chapter and may cancel any registration subsequently found not to be in compliance with this chapter. No registration may be refused or canceled unless the registrant has been given an opportunity to be heard before the department and to amend his application in order to comply with this chapter."

**Section 2.** Section 80-9-206, MCA, is amended to read:

"80-9-206. Inspection fees -- filing of annual statement. (1) An inspection fee shall be paid on all commercial feeds, including custom-mix feeds, except pet foods and specialty pet foods, distributed in this state as follows:

(a) The inspection fee shall be set ~~at 10 cents per ton by rule on a cents-per-ton basis, except that the first 10 tons are exempt.~~ However, ~~after May, 1975, the~~ The department may adjust the fee by rule to adequately fund the administration of this chapter. Adjustments shall be made only after holding a public hearing on the proposed changes

as required in 80-9-103 and shall remain within the limits of 5 cents to 25 cents per ton. The effective date of any such rule adjusting fees will be January 1 of the calendar year following the issuance of such rule. All permit holders are to be notified immediately of any changes in fees.

(b) The feed manufacturer ~~shall have~~ has primary responsibility for paying inspection fees. However, the distributor ~~shall be held~~ is responsible for inspection fees if the manufacturer has not paid them.

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(2) Each person who holds a permit as required in

80-9-201(1) shall:

(a) file, not later than ~~February-28~~ January 31 of each year, an annual statement setting forth the number of tons of commercial feeds distributed in this state during the preceding calendar year (January 1 through December 31) and upon filing such a statement shall pay the inspection fee at the rate stated in subsection (1) of this section. Inspection fees which have not been remitted to the department ~~within-15-days--following~~ before ~~the--due--date~~ January 31 shall have a penalty fee of 10% with a minimum of \$10 added to the amount due. The assessment of this penalty fee does not prevent the department from taking other action as provided in this chapter.

(b) keep those records which are necessary or are required by the department to indicate accurately the tonnage of commercial feed distributed in this state. The department may examine the records to verify statements of tonnage.

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NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 4.** Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 5.** Reregistration requirements. All commercial feeds registered on or before [the effective date of this act] must be registered for the upcoming year by October 1, 1989.

~~NEW SECTION. **Section 6.** Effective date. ---[This--act] is-effective-July-17-1989.~~

-End-

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8 Inspection fees which have not been remitted to the  
9 department ~~within-15-days--following~~ before ~~the--due--date~~  
10 January 31 shall have a penalty fee of 10% with a minimum of  
11 \$10 added to the amount due. The assessment of this penalty  
12 fee does not prevent the department from taking other action  
13 as provided in this chapter.

14 (b) keep those records which are necessary or are  
15 required by the department to indicate accurately the  
16 tonnage of commercial feed distributed in this state. The  
17 department may examine the records to verify statements of  
18 tonnage.

19 (c) make accurate and prompt reports as required.  
20 Failure to do so is sufficient cause for the department to  
21 cancel or refuse to reissue a permit."

22 NEW SECTION. Section 3. Extension of authority. Any  
23 existing authority to make rules on the subject of the  
24 provisions of [this act] is extended to the provisions of  
25 [this act].

1 NEW SECTION. Section 4. Severability. If a part of  
2 [this act] is invalid, all valid parts that are severable  
3 from the invalid part remain in effect. If a part of [this  
4 act] is invalid in one or more of its applications, the part  
5 remains in effect in all valid applications that are  
6 severable from the invalid applications.

7 NEW SECTION. Section 5. Reregistration requirements.  
8 All commercial feeds registered on or before [the effective  
9 date of this act] must be registered for the upcoming year  
10 by October 1, 1989.

11 ~~NEW SECTION. Section 6. Effective date. [This act]~~  
12 ~~is effective July 17, 1989.~~

-End-