

HOUSE BILL NO. 405
INTRODUCED BY SCHYE, COBB

IN THE HOUSE

JANUARY 24, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
JANUARY 25, 1989	FIRST READING.
FEBRUARY 1, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 2, 1989	PRINTING REPORT.
FEBRUARY 3, 1989	SECOND READING, DO PASS.
FEBRUARY 4, 1989	ENGROSSING REPORT.
FEBRUARY 6, 1989	THIRD READING, PASSED. AYES, 99; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 7, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
	FIRST READING.
MARCH 6, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 7, 1989	SECOND READING, CONCURRED IN.
MARCH 9, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

MARCH 10, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 405
2 INTRODUCED BY Salva Cobb
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A
5 WAREHOUSEMAN OR COMMODITY DEALER MAY ESTABLISH LICENSING
6 ELIGIBILITY BY PROVIDING THE DEPARTMENT OF AGRICULTURE WITH
7 ADDITIONAL BONDING OR ITS EQUIVALENT IF CURRENT ASSETS DO
8 NOT EQUAL OR EXCEED CURRENT LIABILITIES; AMENDING SECTIONS
9 80-4-502 AND 80-4-601, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."
11

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

13 **Section 1.** Section 80-4-502, MCA, is amended to read:

14 "80-4-502. Licenses to warehouseman -- issuance --
15 renewal -- conditions precedent. (1) The department is
16 authorized to issue or renew, upon application, a license to
17 any warehouseman for the conduct of a warehouse or
18 warehouses in accordance with parts 5 and 6 of this chapter,
19 provided the following conditions are met:

20 (a) Each applicant shall file and maintain
21 satisfactory evidence of an effective policy of insurance
22 issued by an insurance company authorized to do business in
23 this state, insuring all agricultural commodities that are
24 stored in the warehouse, including agricultural commodities
25 owned by the warehouseman. The insurance shall insure the

1 commodities for the full market value at the time of loss of
2 such commodities against loss by fire, internal explosion,
3 lightning, or tornado.

4 (b) Each warehouse must be found suitable for the
5 proper storage of the particular agricultural commodity
6 stored therein.

7 (c) A license fee must be submitted to the department
8 as prescribed by 80-4-503.

9 (d) A current drawing of the warehouse, showing
10 storage facilities and capacity of the warehouse, must be
11 submitted to the department.

12 (e) A sufficient and valid bond must be filed and
13 maintained as required by 80-4-504 and 80-4-505.

14 (f) The applicant has submitted to the department a
15 current financial statement prepared by a licensed
16 accountant according to generally accepted accounting
17 principles, showing that the applicant has and does maintain
18 current assets equal to or greater than current liabilities.
19 Applicants not having adequate current assets equal to or
20 greater than current liabilities may provide the department
21 with additional bonding, or an equivalent in the form of a
22 certificate of deposit or irrevocable letter of credit, in
23 the amount of \$2,000 for each \$1,000 of deficit. The bond or
24 equivalent must be in addition to the bond amount required
25 in 80-4-505.

1 (g) The applicant must submit a sample warehouse
2 receipt and subsequent revisions to the department for
3 approval and filing.

4 (h) The applicant must have complied with the terms of
5 this part and the rules prescribed thereunder.

6 (2) All documents required for renewal of a license
7 must be received by the department prior to the expiration
8 date of the warehouse license. An expired warehouse license
9 may be reinstated by the department upon receipt of all
10 required licensing documents and a penalty fee of \$50 if the
11 documents are filed within 30 days from the date of
12 expiration of the warehouse license. All license
13 applications received after the 30-day penalty period must
14 be considered original applications and an initial license
15 fee must be assessed according to 80-4-503."

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

17 "80-4-601. **Commodity dealer license requirements --**
18 **financial responsibility.** (1) A person may not engage in the
19 business of a commodity dealer in this state without first
20 having obtained a license issued by the department.

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

24 (3) A license application must include the following:

25 (a) the name of the applicant;

1 (b) the names of the officers and directors if the
2 applicant is a corporation;

3 (c) the names of the partners if the applicant is a
4 partnership;

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

6 (e) a sufficient and valid bond as specified in
7 80-4-604;

8 (f) the number and description of trucks or
9 tractor-trailer units owned or leased by the applicant that
10 will be used in the transportation of agricultural
11 commodities purchased pursuant to the provisions of this
12 part;

13 (g) a complete financial statement prepared by a
14 licensed accountant according to generally accepted
15 accounting principles, setting forth the applicant's assets,
16 liabilities, and net worth. The commodity dealer shall have
17 and maintain current assets equal to or greater than current
18 liabilities. ~~Assets--must--be--shown--at--original--cost--less~~
19 ~~depreciation;--except--that--upon--written--request--filed--with~~
20 ~~the--department;--the--director--may--allow--asset--valuations--in~~
21 ~~accordance--with--a--competent--appraisal;--in--determining--total~~
22 ~~net--assets;--credit--may--be--given--for--insurable--property;--such~~
23 ~~as--buildings;--machinery;--equipment;--and--merchandise~~
24 ~~inventory;--only--to--the--extent--that--such--property--is~~
25 ~~protected--by--insurance--against--loss--or--damage--by--fire;--the~~

1 ~~insurance--must--be--in--the--form--of--lawful--policies--issued--by~~
 2 ~~one--or--more--insurance--companies--authorized--to--do--business~~
 3 ~~and--subject--to--service--of--process--in--suits--brought--in--this~~
 4 ~~state-~~ Applicants not having adequate current assets equal
 5 to or greater than current liabilities may provide the
 6 department with additional bonding, or an equivalent in the
 7 form of a certificate of deposit or irrevocable letter of
 8 credit, in the amount of \$2,000 for each \$1,000 of deficit.
 9 The bond or equivalent must be in addition to the bond
 10 amount required in 80-4-604.

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

14 (4) In order to receive and retain a commodity
 15 dealer's license, a commodity dealer shall have and maintain
 16 net assets of at least \$50,000 or maintain a bond in the
 17 amount of \$2,000 for each \$1,000 or fraction thereof of net
 18 assets deficiency. However, a minimum of \$10,000 net assets
 19 is required by a commodity dealer to qualify for a license.
 20 Assets must be shown at original cost less depreciation,
 21 except that upon written request filed with the department,
 22 the director may allow asset valuations in accordance with a
 23 competent appraisal. In determining total net assets, credit
 24 may be given for insurable property, such as buildings,
 25 machinery, equipment, and merchandise inventory, only to the

1 extent that such property is protected by insurance against
 2 loss or damage by fire. The insurance must be in the form of
 3 lawful policies issued by one or more insurance companies
 4 authorized to do business and subject to service of process
 5 in suits brought in this state. A bond submitted for
 6 purposes of this subsection is in addition to any bond
 7 otherwise required under this part.

8 (5) The department shall adopt rules relating to the
 9 form and time of filing of financial statements. The
 10 department may require additional information or
 11 verification regarding the financial resources of the
 12 applicant and the applicant's ability to pay producers for
 13 agricultural commodities purchased from them."

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

18 NEW SECTION. Section 4. Effective date. [This act] is
 19 effective on passage and approval.

-End-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

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2 INTRODUCED BY Dehya Cobb
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9 80-4-502 AND 80-4-601, MCA; AND PROVIDING AN IMMEDIATE
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16 authorized to issue or renew, upon application, a license to
17 any warehouseman for the conduct of a warehouse or
18 warehouses in accordance with parts 5 and 6 of this chapter,
19 provided the following conditions are met:

20 (a) Each applicant shall file and maintain
21 satisfactory evidence of an effective policy of insurance
22 issued by an insurance company authorized to do business in
23 this state, insuring all agricultural commodities that are
24 stored in the warehouse, including agricultural commodities
25 owned by the warehouseman. The insurance shall insure the

1 commodities for the full market value at the time of loss of
2 such commodities against loss by fire, internal explosion,
3 lightning, or tornado.

4 (b) Each warehouse must be found suitable for the
5 proper storage of the particular agricultural commodity
6 stored therein.

7 (c) A license fee must be submitted to the department
8 as prescribed by 80-4-503.

9 (d) A current drawing of the warehouse, showing
10 storage facilities and capacity of the warehouse, must be
11 submitted to the department.

12 (e) A sufficient and valid bond must be filed and
13 maintained as required by 80-4-504 and 80-4-505.

14 (f) The applicant has submitted to the department a
15 current financial statement prepared by a licensed
16 accountant according to generally accepted accounting
17 principles, showing that the applicant has and does maintain
18 current assets equal to or greater than current liabilities.
19 Applicants not having adequate current assets equal to or
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21 with additional bonding, or an equivalent in the form of a
22 certificate of deposit or irrevocable letter of credit, in
23 the amount of \$2,000 for each \$1,000 of deficit. The bond or
24 equivalent must be in addition to the bond amount required
25 in 80-4-505.

(g) The applicant must submit a sample warehouse receipt and subsequent revisions to the department for approval and filing.

(h) The applicant must have complied with the terms of this part and the rules prescribed thereunder.

(2) All documents required for renewal of a license must be received by the department prior to the expiration date of the warehouse license. An expired warehouse license may be reinstated by the department upon receipt of all required licensing documents and a penalty fee of \$50 if the documents are filed within 30 days from the date of expiration of the warehouse license. All license applications received after the 30-day penalty period must be considered original applications and an initial license fee must be assessed according to 80-4-503."

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

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

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

(3) A license application must include the following:

(a) the name of the applicant;

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

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

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

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

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

(g) a complete financial statement prepared by a licensed accountant according to generally accepted accounting principles, setting forth the applicant's assets, liabilities, and net worth. The commodity dealer shall have and maintain current assets equal to or greater than current liabilities. ~~Assets--must--be--shown--at--original--cost--less depreciation, except that upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal, in determining total net assets, credit may be given for insurable property, such as buildings, machinery, equipment, and merchandise inventory, only to the extent that such property is protected by insurance against loss or damage by fire. The~~

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form of a certificate of deposit or irrevocable letter of
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The bond or equivalent must be in addition to the bond
amount required in 80-4-604.

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

(4) In order to receive and retain a commodity
dealer's license, a commodity dealer shall have and maintain
net assets of at least \$50,000 or maintain a bond in the
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extent that such property is protected by insurance against
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purposes of this subsection is in addition to any bond
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form and time of filing of financial statements. The
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