

HOUSE BILL NO. 465  
INTRODUCED BY IVERSON  
BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

## IN THE HOUSE

IN THE SENATE

## IN THE HOUSE

MARCH 22, 1989 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 465

2 INTRODUCED BY Guerson

3 BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LIVESTOCK

6 MARKETING LAWS; TO REVISE THE DEFINITION OF "LIVESTOCK

7 DEALER"; TO REVISE THE BOND REQUIREMENTS FOR DEALERS; TO

8 ELIMINATE THE REQUIREMENT TO FILE FINANCIAL STATEMENTS;

9 AMENDING SECTIONS 81-8-213, 81-8-271, 81-8-273, 81-8-275,

10 81-8-276, AND 81-8-279, MCA; AND REPEALING SECTION 81-8-277.

11 MCA."

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

14 **Section 1.** Section 81-8-213, MCA, is amended to read:

15 "81-8-213. Definitions. As used in this part, the

16 following definitions apply:

17 (1) "Board" means the board of livestock provided for

18 in 2-15-3102.

19 (2) "Department" means the department of livestock

20 provided for in Title 2, chapter 15, part 31.

21 (3) "Livestock" means cattle, calves, hogs, pigs,

22 horses, mules, sheep, lambs, and goats.

23 (4) "Livestock dealer" means a person engaged in the

24 business of buying or selling livestock. It does not include

25 a farmer-or-rancher-who-buys--or--sells livestock produced

1        acquiring or transferring ownership of livestock in the  
2        ordinary course of his farming--or--ranching    livestock  
3        production operation and whose ownership interest is  
4        indicated by:

5                (a) branding with the producer's recorded brand all  
6        livestock acquired by him other than through natural  
7        reproduction; or

8                (b) payment by him of county taxes assessed on  
9        livestock acquired by him.

10                (5) "Livestock market" means a place where a person  
11        for compensation assembles livestock for sale, except:

12                (a) a place used solely for a dispersal sale of the  
13        livestock of a farmer, dairyman, livestock breeder, or  
14        feeder who is discontinuing business and at which no other  
15        livestock is sold or offered for sale;

16                (b) a farm, ranch, or place where livestock either  
17        raised or kept thereon for the grazing season or for  
18        fattening is sold and to which no other livestock is brought  
19        for sale or to be offered for sale;

20                (c) the premises of a butcher, packer, or processor  
21        who receives animals exclusively for immediate slaughter;

22                (d) the premises of a person engaged in the raising of  
23        livestock for breeding purposes only, who limits his sale to  
24        livestock of his own production;

25                (e) a place where a breeder or an association of

1 breeders of livestock of any class assembles and offers for  
 2 sale and sells under his or its own management any  
 3 livestock, when the breeder or association of breeders  
 4 assumes all responsibility for the sale and the title of  
 5 livestock sold.

6 (6) "Person" means an individual, firm, association,  
 7 partnership, or corporation.

8 (7) "Test station sale" means the sale of livestock  
 9 from a place where livestock is taken to measure rates of  
 10 gain under uniform feeding conditions when that place is not  
 11 owned by the owner of the livestock."

12 **Section 2.** Section 81-8-271, MCA, is amended to read:

13 "81-8-271. License to operate as livestock dealer --  
 14 application. (1) No A person may not operate as a livestock  
 15 dealer without a license. A person who wishes to operate as  
 16 a livestock dealer shall file with the department an  
 17 application for a license to transact such business on a  
 18 form prescribed by the department stating the type of  
 19 license sought and the following information:

20 (a) the names of the persons applying for the license  
 21 together with their permanent addresses and, if the  
 22 applicant is a firm, association, partnership, or  
 23 corporation, the names of its directors, officers, and  
 24 members, if applicable;

25 (b) the post-office address and principal place of

1 business of the applicant;

2 (c) if the applicant is a foreign corporation, its  
 3 principal place of business outside the state, the name of  
 4 the state in which it is incorporated, and a statement  
 5 showing that it has complied with the laws of this state  
 6 relating to foreign corporations and its right to do  
 7 business in this state;

8 ~~tdj--a--detailed--financial--statement--setting--forth--all  
 9 assets--and--liabilities--of--the--applicant--pertinent--to--the  
 10 business--for--which--the--license--is--sought~~

11 (d) proof of acquisition of a bond from the packers  
 12 and stockyards administration of the United States  
 13 department of agriculture.

14 (2) An application fee of \$50 must be submitted with  
 15 each application for a livestock dealer's license. The fee  
 16 shall be the first annual fee if the license is granted.

17 (3) A person who purports to act as an agent for a  
 18 livestock dealer in the purchase or sale of livestock may  
 19 not engage in such business activities without a livestock  
 20 dealer's license."

21 **Section 3.** Section 81-8-273, MCA, is amended to read:

22 "81-8-273. Refusal to issue or renew license. (1) The  
 23 department shall refuse to issue or renew a license if the  
 24 applicant:

25 (a) has failed to maintain a financial condition of

1 total assets in excess of total liabilities, including total  
 2 current assets in excess of total current liabilities;

3 (b) is in violation of any of the provisions of this  
 4 part;

5 (c) has knowingly made false or misleading statements  
 6 as to the health or physical condition of livestock or  
 7 practiced fraud or misrepresentation in connection with the  
 8 buying or receiving of livestock or the selling, exchanging,  
 9 soliciting, or negotiating of the sale of livestock or the  
 10 weighing of the same;

11 (d) has failed to keep records of all purchases and  
 12 sales or refused to grant inspection of such records by  
 13 authorized agents of the department;

14 (e) is in violation of the rules adopted by the  
 15 department;

16 (f) has failed to comply with a lawful order of the  
 17 department;

18 ~~(g) has been found by the department to have failed~~  
 19 ~~to pay, without reasonable cause, obligations incurred in~~  
~~connection with livestock transactions;~~

20 ~~(h) has been suspended by the order of the~~  
 21 ~~secretary of agriculture of the United States department of~~  
 22 ~~agriculture under provisions of the Packers and Stockyards~~

1 Act, 1921, as amended, 7 U.S.C. 181, et seq.; or  
 2 ~~(i) employs a person required to be licensed whose~~  
 3 license cannot be renewed or whose license is under  
 4 suspension or revocation by the department or the United  
 5 States department of agriculture.

6 (2) An applicant refused a license or license renewal  
 7 may not apply again for 1 year following refusal unless the  
 8 department determines that the applicant has met the  
 9 requirements of this part."

10 **Section 4.** Section 81-8-275, MCA, is amended to read:  
 11 "81-8-275. Termination of license. A license issued  
 12 under this part terminates at the close of business on May 1  
 13 of each year following the issuance of the same license  
 14 unless the annual fee has been paid. ~~Termination--of--the~~  
~~license--will--automatically--occur--if--the--bond--required--by~~  
~~81-8-277--is--terminated--"~~

17 **Section 5.** Section 81-8-276, MCA, is amended to read:  
 18 "81-8-276. Annual fee and financial statement.  
 19 Livestock dealers shall pay an annual fee established by the  
 20 department and when requested by the department shall supply  
 21 a current financial statement. The fee is payable on May 1  
 22 to the state treasurer to the credit of the department."

23 **Section 6.** Section 81-8-279, MCA, is amended to read:  
 24 "81-8-279. Penalties. (1) A person who violates any  
 25 provision of 81-8-271 through 81-8-273, and 81-8-276,

1     through or 81-8-278 or rules adopted by the department to  
2     implement those sections is guilty of a misdemeanor and upon  
3     conviction shall be fined not less than \$250 or more than  
4     \$1,000 or imprisoned for not more than 6 months, or both.

5                 (2) Of all fines assessed and collected under this  
6     section, except those assessed and collected in a justice's  
7     court, 50% shall be paid into the state treasury and  
8     credited to the special revenue fund for the use of the  
9     department and 50% shall be paid into the general revenue  
10    fund of the county in which the conviction occurred."

11                 NEW SECTION. **Section 7.** Repealer. Section 81-8-277,  
12    MCA, is repealed.

13                 NEW SECTION. **Section 8.** Extension of authority. Any  
14    existing authority to make rules on the subject of the  
15    provisions of [this act] is extended to the provisions of  
16    [this act].

-End-

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

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19 (2) "Department" means the department of livestock  
20 provided for in Title 2, chapter 15, part 31.

21 (3) "IMMEDIATE RESALE" MEANS A SALE OF LIVESTOCK  
22 WITHIN 60 DAYS OF THE PURCHASE OF THE LIVESTOCK.

23            (3)(4) "Livestock" means cattle, calves, hogs, pigs,  
24            horses, mules, sheep, lambs, and goats.

1 the business of buying or selling PURCHASING livestock FOR  
2 IMMEDIATE RESALE OR INTERSTATE SHIPMENT. It does not include  
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4 acquiring or transferring ownership of livestock in the  
5 ordinary course of his farming or ranching livestock  
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 4 business of the applicant;

5 (c) if the applicant is a foreign corporation, its  
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 18 department;

19      (f) has failed to comply with a lawful order of the  
 20 department;

21      ~~(g)--has-not-filled-a-surety-bond-in-the-form-and-amount~~  
 22 ~~required-under-81-8-277;~~

23      ~~(h)~~ has been found by the department to have failed  
 24 to pay, without reasonable cause, obligations incurred in  
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 2 secretary of agriculture of the United States department of  
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 4 Act, 1921, as amended, 7 U.S.C. 181, et seq.; or  
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17 existing authority to make rules on the subject of the  
18 provisions of [this act] is extended to the provisions of  
19 [this act].

20        **NEW SECTION.** **SECTION 9.** EFFECTIVE DATE. [THIS ACT] IS  
21 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

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11 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 81-8-213, MCA, is amended to read:

15        "81-8-213. Definitions. As used in this part, the  
16        following definitions apply:

17 (1) "Board" means the board of livestock provided for  
18 in 2-15-3102.

19 (2) "Department" means the department of livestock  
20 provided for in Title 2, chapter 15, part 31.

21 (3) "IMMEDIATE RESALE" MEANS A SALE OF LIVESTOCK  
22 WITHIN 60 DAYS OF THE PURCHASE OF THE LIVESTOCK.

23        ~~33~~(4) "Livestock" means cattle, calves, hogs, pigs,  
24        horses, mules, sheep, lambs, and goats.

25 ~~t47(5)~~ "Livestock dealer" means a person engaged in

1 the business of buying-or-setting PURCHASING livestock FOR  
2 IMMEDIATE RESALE OR INTERSTATE SHIPMENT. it-does-not-include  
3 a-farmer-or-rancher-who-buys--or--sets--livestock--producer  
4 acquiring--or--transferring--ownership--of--livestock-in-the  
5 ordinary--course--of--his--farming--or--ranching--livestock  
6 production--operation--and--whose--ownership--interest--is  
7 indicated-by:

8 factory--branding--with--the--producer's--recorded--brand--all  
9 livestock--acquired--by--him--other--than--through--natural  
10 reproduction--or

11 ~~fbj--payment--by--him--of--county--taxes--assessed--on~~  
12 ~~livestock--acquired--by--him--~~

13               t57(6) "Livestock market" means a place where a person  
14       for compensation assembles livestock for sale, except:  
15               (a) a place used solely for a dispersal sale of the  
16       livestock of a farmer, dairyman, livestock breeder, or  
17       feeder who is discontinuing business and at which no other  
18       livestock is sold or offered for sale;

19 (b) a farm, ranch, or place where livestock either  
20 raised or kept thereon for the grazing season or for  
21 fattening is sold and to which no other livestock is brought  
22 for sale or to be offered for sale;

23 (c) the premises of a butcher, packer, or processor  
24 who receives animals exclusively for immediate slaughter;

25 (d) the premises of a person engaged in the raising of

1 livestock for breeding purposes only, who limits his sale to  
 2 livestock of his own production;

3       (e) a place where a breeder or an association of  
 4 breeders of livestock of any class assembles and offers for  
 5 sale and sells under his or its own management any  
 6 livestock, when the breeder or association of breeders  
 7 assumes all responsibility for the sale and the title of  
 8 livestock sold.

9       (f) "Person" means an individual, firm,  
 10 association, partnership, or corporation.

11       (g) "Test station sale" means the sale of livestock  
 12 from a place where livestock is taken to measure rates of  
 13 gain under uniform feeding conditions when that place is not  
 14 owned by the owner of the livestock."

15       **Section 2.** Section 81-8-271, MCA, is amended to read:

16       **"81-8-271. License to operate as livestock dealer --**  
 17 **application.** (1) No A person may not operate as a livestock  
 18 dealer without a license. A person who wishes to operate as  
 19 a livestock dealer shall file with the department an  
 20 application for a license to transact such business on a  
 21 form prescribed by the department stating the type of  
 22 license sought and the following information:

23       (a) the names of the persons applying for the license  
 24 together with their permanent addresses and, if the  
 25 applicant is a firm, association, partnership, or

1 corporation, the names of its directors, officers, and  
 2 members, if applicable;

3       (b) the post-office address and principal place of  
 4 business of the applicant;

5       (c) if the applicant is a foreign corporation, its  
 6 principal place of business outside the state, the name of  
 7 the state in which it is incorporated, and a statement  
 8 showing that it has complied with the laws of this state  
 9 relating to foreign corporations and its right to do  
 10 business in this state;

11        --a--detailed--financial--statement--setting--forth--all   12 assets-and-liabilities-of-the--applicant--pertinent--to--the   13 business-for-which-the-license-is-sought |

14       (d) proof of acquisition of a bond from the packers  
 15 and stockyards administration of the United States  
department of agriculture.

17       (2) An application fee of \$50 must be submitted with  
 18 each application for a livestock dealer's license. The fee  
 19 shall be the first annual fee if the license is granted.

20       (3) A person who purports to act as an agent for a  
 21 livestock dealer in the purchase or sale of livestock may  
 22 not engage in such business activities without a livestock  
 23 dealer's license."

24       **Section 3.** Section 81-8-273, MCA, is amended to read:

25       **"81-8-273. Refusal to issue or renew license.** (1) The

1 department shall refuse to issue or renew a license if the  
 2 applicant:

3 (a) has failed to maintain a financial condition of  
 4 total assets in excess of total liabilities, including total  
 5 current assets in excess of total current liabilities;

6 (b) is in violation of any of the provisions of this  
 7 part;

8 (c) has knowingly made false or misleading statements  
 9 as to the health or physical condition of livestock or  
 10 practiced fraud or misrepresentation in connection with the  
 11 buying or receiving of livestock or the selling, exchanging,  
 12 soliciting, or negotiating of the sale of livestock or the  
 13 weighing of the same;

14 (d) has failed to keep records of all purchases and  
 15 sales or refused to grant inspection of such records by  
 16 authorized agents of the department;

17 (e) is in violation of the rules adopted by the  
 18 department;

19 (f) has failed to comply with a lawful order of the  
 20 department;

21 ~~(g)--has-not-fitted-a-surety-bond-in-the-form-and-amount~~  
 22 ~~required-under-81-8-277;~~

23 ~~tht(g)~~ has been found by the department to have failed  
 24 to pay, without reasonable cause, obligations incurred in  
 25 connection with livestock transactions;

1 ~~t~~ttt(h) has been suspended by the order of the  
 2 secretary of agriculture of the United States department of  
 3 agriculture under provisions of the Packers and Stockyards  
 4 Act, 1921, as amended, 7 U.S.C. 181, et seq.; or

5 ~~t~~ttt(i) employs a person required to be licensed whose  
 6 license cannot be renewed or whose license is under  
 7 suspension or revocation by the department or the United  
 8 States department of agriculture.

9 (2) An applicant refused a license or license renewal  
 10 may not apply again for 1 year following refusal unless the  
 11 department determines that the applicant has met the  
 12 requirements of this part."

13 **Section 4.** Section 81-8-275, MCA, is amended to read:

14 "81-8-275. Termination of license. A license issued  
 15 under this part terminates at the close of business on May 1  
 16 of each year following the issuance of the same license  
 17 unless the annual fee has been paid. ~~Termination--of--the~~  
 18 ~~license--will--automatically--occur--if--the--bond--required--by~~  
 19 ~~81-8-277--is--terminated--"~~

20 **Section 5.** Section 81-8-276, MCA, is amended to read:

21 "81-8-276. Annual fee and financial statement.  
 22 Livestock dealers shall pay an annual fee established by the  
 23 department and when requested by the department shall supply  
 24 a current financial statement. The fee is payable on May 1  
 25 to the state treasurer to the credit of the department."

1       **Section 6.** Section 81-8-279, MCA, is amended to read:

2       "81-8-279. **Penalties.** (1) A person who violates any  
3 provision of 81-8-271 through 81-8-273 and 81-8-276 and  
4 through or 81-8-278 or rules adopted by the department to  
5 implement those sections is guilty of a misdemeanor and upon  
6 conviction shall be fined not less than \$250 or more than  
7 \$1,000 or imprisoned for not more than 6 months, or both.

8       (2) Of all fines assessed and collected under this  
9 section, except those assessed and collected in a justice's  
10 court, 50% shall be paid into the state treasury and  
11 credited to the special revenue fund for the use of the  
12 department and 50% shall be paid into the general revenue  
13 fund of the county in which the conviction occurred."

14       **NEW SECTION.** **Section 7.** **Repealer.** Section 81-8-277,  
15 MCA, is repealed.

16       **NEW SECTION.** **Section 8.** **Extension of authority.** Any  
17 existing authority to make rules on the subject of the  
18 provisions of [this act] is extended to the provisions of  
19 [this act].

20       **NEW SECTION.** **SECTION 9.** **EFFECTIVE DATE.** [THIS ACT] IS  
21 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-