

HOUSE BILL NO. 572

INTRODUCED BY DEMARS, JENKINS, STRIZICH,
CONNELLY, WESTLAKE, KOEHNKE, GUTHRIE

IN THE HOUSE

FEBRUARY 4, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1989	PRINTING REPORT.
FEBRUARY 20, 1989	SECOND READING, DO PASS.
FEBRUARY 21, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 99; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 21, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 22, 1989	SECOND READING, CONCURRED IN.
MARCH 27, 1989	THIRD READING, CONCURRED IN. AYES, 45; NOES, 4.
	RETURNED TO HOUSE.

MARCH 28, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *572*
2 INTRODUCED BY *DeMars*
3 *Wueste*
4 *Connelly*
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING EMPLOYEES OF
6 THE DEPARTMENT OF HIGHWAYS AUTHORIZED TO INSPECT AND WEIGH
7 MOTOR VEHICLES TO COLLECT BILLS OF LADING FROM CARRIERS OF
8 AGRICULTURAL SEED; REQUIRING THE OFFICERS TO FORWARD THE
9 BILLS OF LADING TO THE DEPARTMENT OF AGRICULTURE; REQUIRING
10 A SEED DEALER TO PROVIDE CERTAIN INFORMATION ON A BILL OF
11 LADING; AND AMENDING SECTIONS 61-10-141 AND 80-5-202, MCA."

12 WHEREAS, the growth and spread of noxious weeds in the
13 State of Montana has become one of the single greatest
14 natural threats to the state's agricultural industry and
15 economy; and

16 WHEREAS, this threat frequently materializes when seeds
17 shipped into this state contain unlawful noxious weed seeds
18 which become planted with agricultural seed crops before the
19 Department of Agriculture has the knowledge and opportunity
20 to embargo the shipment; and

21 WHEREAS, the Legislature of the State of Montana finds
22 it appropriate to use existing Department of Highways
23 personnel and the facilities in the Gross Vehicle Weight
24 Division to obtain bills of lading on all seed shipments
25 into the state and forward the bills of lading to the

1 Montana Department of Agriculture in order to enhance its
2 enforcement capabilities.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

5 **Section 1.** Section 61-10-141, MCA, is amended to read:

6 "61-10-141. Officers authorized to weigh vehicles and
7 require removal of excessive loads -- enforcement of motor
8 carrier safety standards -- duty to obtain bills of lading
9 for agricultural seeds. (1) A peace officer, officer of the
10 highway patrol, or employee of the department of highways
11 may weigh any vehicle regulated by 61-10-101 through
12 61-10-110, either by means of portable or stationary scales,
13 and may require that the vehicle be driven to the nearest
14 scales if those scales are within 2 miles. That person may
15 then require the driver to unload immediately that portion
16 of the load necessary to decrease the weight of the vehicle
17 to conform to the maximum allowable weights specified in
18 61-10-101 through 61-10-110.

19 (2) Commodities and material unloaded as required by
20 this section shall be cared for and removed from the highway
21 right-of-way by the owner or operator of the vehicle at the
22 risk of that owner or operator. The removal shall be within
23 a reasonable time designated by the person who has compelled
24 the unloading.

25 (3) The department of highways may establish,

maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks under 8,000 pounds G.V.W., to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements.

(4) The department of highways shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of such the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of highways shall cooperate to assure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of highways shall designate employees as peace officers. The designated employees must be employed in the administration of the gross vehicle weight functions of the department of highways. Each employee so designated as a peace officer may:

- (a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;
- (b) issue summons;
- (c) accept bail;
- (d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles utilized by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of such vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of highways has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203; and

(b) the duty to secure or make copies, or both, of all bills of lading for shipment of agricultural seeds as defined in 80-5-120 and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained."

Section 2. Section 80-5-202, MCA, is amended to read:

"80-5-202. Licensing -- application -- fee. (1) All seed conditioning plants shall obtain a license from the department for each plant before doing business in this state; however, a seed grower, when conditioning seed from his own production, is not required to be licensed under this part.

(2) Each conditioning plant must post in a conspicuous

1 location in the facility:

2 (a) its fees for conditioning services; and

3 (b) the license designation for the facility.

4 (3) All seed labelers and growers who label or affix
5 written claims to their seed shall obtain a license from the
6 department before doing business in Montana. The following
7 persons, however, are excluded from the licensing
8 requirements under this subsection:

9 (a) a Montana certified seed grower when labeling
10 certified seed from his own production; and

11 (b) any person who updates germination test data by
12 affixing to the package of seed a supplemental label bearing
13 new germination data, the lot number, and his name and
14 address.

15 (4) No A person may not sell or distribute seed in
16 Montana without obtaining a seed dealer's license from the
17 department for each place where seed is located, except for:

18 (a) a person who distributes seed only in sealed
19 packages of 10 pounds or less that are properly labeled;

20 (b) a Montana certified seed grower when selling
21 certified seed from his own production; and

22 (c) a grain producer when making bin-run seed sales.

23 (5) Each person selling seed from a location other
24 than the licensed place must be listed on the application
25 for license.

1 (6) The department shall set by rule the period for
2 which a license is issued under this section.

3 (7) The department may establish by rule minimum
4 standards for equipment and handling procedures for
5 facilities to be licensed.

6 (8) Each license shall cost no more than \$50 a year.
7 The fee must include the cost of application for a license
8 and must be nonrefundable. The department may by rule
9 establish license fees which bear a reasonable relationship
10 to the cost of administering this part.

11 (9) An application for a license under this section
12 must be made in a manner and on forms provided by the
13 department. Such The application must contain among other
14 things:

15 (a) the location of each seed conditioning plant if
16 the application is for a seed conditioning plant license;

17 (b) a sample label if the application is for a seed
18 labeler license; and

19 (c) a list of persons selling seed if the application
20 is for a seed dealer's license.

21 (10) Licensed seed dealers shall provide with all
22 shipments of seed a bill of lading that includes:

23 (a) the names of:

24 (i) the seller;

25 (ii) the shipper, if other than the seller;

LC 1183/01

1 (iii) the buyer; and
2 (iv) the receiver, if other than the buyer; and
3 (b) the destination where the seed will be first
4 unloaded."

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

-End-

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

HOUSE BILL NO. 572

INTRODUCED BY DEMARS, JENKINS, STRIZICH,
CONNELLY, WESTLAKE, KOEHNKE, GUTHRIE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING EMPLOYEES OF
THE DEPARTMENT OF HIGHWAYS AUTHORIZED TO INSPECT AND WEIGH
MOTOR VEHICLES TO COLLECT BILLS OF LADING FROM CARRIERS OF
AGRICULTURAL SEED; REQUIRING THE OFFICERS TO FORWARD THE
BILLS OF LADING TO THE DEPARTMENT OF AGRICULTURE; REQUIRING
A SEED DEALER TO PROVIDE CERTAIN INFORMATION ON A BILL OF
LADING; AND AMENDING SECTIONS 61-10-141 AND 80-5-202, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION
DATE."

WHEREAS, the growth and spread of noxious weeds in the
State of Montana has become one of the single greatest
natural threats to the state's agricultural industry and
economy; and

WHEREAS, this threat frequently materializes when seeds
shipped into this state contain unlawful noxious weed seeds
which become planted with agricultural seed crops before the
Department of Agriculture has the knowledge and opportunity
to embargo the shipment; and

WHEREAS, the Legislature of the State of Montana finds
it appropriate to use existing Department of Highways

personnel and the facilities in the Gross Vehicle Weight
Division to obtain bills of lading on all seed shipments
into the state and forward the bills of lading to the
Montana Department of Agriculture in order to enhance its
enforcement capabilities.

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

Section 1. Section 61-10-141, MCA, is amended to read:

"61-10-141. Officers authorized to weigh vehicles and
require removal of excessive loads -- enforcement of motor
carrier safety standards -- duty to obtain bills of lading
for agricultural seeds. (1) A peace officer, officer of the
highway patrol, or employee of the department of highways
may weigh any vehicle regulated by 61-10-101 through
61-10-110, either by means of portable or stationary scales,
and may require that the vehicle be driven to the nearest
scales if those scales are within 2 miles. That person may
then require the driver to unload immediately that portion
of the load necessary to decrease the weight of the vehicle
to conform to the maximum allowable weights specified in
61-10-101 through 61-10-110.

(2) Commodities and material unloaded as required by
this section shall be cared for and removed from the highway
right-of-way by the owner or operator of the vehicle at the
risk of that owner or operator. The removal shall be within

1 a reasonable time designated by the person who has compelled
2 the unloading.

3 (3) The department of highways may establish,
4 maintain, and operate weigh stations, either intermittently
5 or on a continuous schedule, and may require vehicles,
6 except passenger cars and pickup trucks under 8,000 pounds
7 G.V.W., to enter for the purpose of weighing and inspection
8 for compliance with all laws pertaining to their operation
9 and safety requirements.

10 (4) The department of highways shall work with the
11 highway patrol in the enforcement of safety standards
12 adopted pursuant to 44-1-1005. For the purposes of such the
13 joint enforcement, the highway patrol is designated as the
14 lead agency. The highway patrol and the department of
15 highways shall cooperate to assure minimum duplication and
16 maximum coordination of enforcement effort.

17 (5) In order to enforce compliance with safety
18 standards adopted pursuant to 44-1-1005, the department of
19 highways shall designate employees as peace officers. The
20 designated employees must be employed in the administration
21 of the gross vehicle weight functions of the department of
22 highways. Each employee ~~so~~ designated as a peace officer
23 may:

24 (a) issue citations and make arrests in connection
25 with violations of safety standards adopted under 44-1-1005;

1 (b) issue summons;

2 (c) accept bail;

3 (d) serve warrants for arrest;

4 (e) make reasonable inspections of cargo carried by
5 commercial motor vehicles;

6 (f) make reasonable safety inspections of commercial
7 motor vehicles utilized by motor carriers; and

8 (g) require production of documents relating to the
9 cargo, driver, routing, or ownership of such vehicles.

10 (6) In addition to other enforcement duties assigned
11 under this section, an employee of the department of
12 highways has:

13 (a) the same authority to enforce provisions of the
14 motor carriers law as that granted the public service
15 commission under 69-12-203; and

16 (b) the duty to secure or make copies, or both, of all
17 bills of lading OR OTHER EVIDENCE OF DELIVERY for shipment
18 of agricultural seeds as defined in 80-5-120 THAT HAVE BEEN
19 SOLD OR ARE INTENDED FOR SALE IN MONTANA and to forward the
20 copies to the department of agriculture within 24 hours of
21 the date the bill of lading was obtained."

22 **Section 2.** Section 80-5-202, MCA, is amended to read:

23 "80-5-202. Licensing -- application -- fee. (1) All
24 seed conditioning plants shall obtain a license from the
25 department for each plant before doing business in this

1 state; however, a seed grower, when conditioning seed from
2 his own production, is not required to be licensed under
3 this part.

4 (2) Each conditioning plant must post in a conspicuous
5 location in the facility:

- 6 (a) its fees for conditioning services; and
- 7 (b) the license designation for the facility.

8 (3) All seed labelers and growers who label or affix
9 written claims to their seed shall obtain a license from the
10 department before doing business in Montana. The following
11 persons, however, are excluded from the licensing
12 requirements under this subsection:

13 (a) a Montana certified seed grower when labeling
14 certified seed from his own production; and

15 (b) any person who updates germination test data by
16 affixing to the package of seed a supplemental label bearing
17 new germination data, the lot number, and his name and
18 address.

19 (4) No A person may not sell or distribute seed in
20 Montana without obtaining a seed dealer's license from the
21 department for each place where seed is located, except for:

22 (a) a person who distributes seed only in sealed
23 packages of 10 pounds or less that are properly labeled;

24 (b) a Montana certified seed grower when selling
25 certified seed from his own production; and

1 (c) a grain producer when making bin-run seed sales.

2 (5) Each person selling seed from a location other
3 than the licensed place must be listed on the application
4 for license.

5 (6) The department shall set by rule the period for
6 which a license is issued under this section.

7 (7) The department may establish by rule minimum
8 standards for equipment and handling procedures for
9 facilities to be licensed.

10 (8) Each license shall cost no more than \$50 a year.
11 The fee must include the cost of application for a license
12 and must be nonrefundable. The department may by rule
13 establish license fees which bear a reasonable relationship
14 to the cost of administering this part.

15 (9) An application for a license under this section
16 must be made in a manner and on forms provided by the
17 department. Such The application must contain among other
18 things:

19 (a) the location of each seed conditioning plant if
20 the application is for a seed conditioning plant license;

21 (b) a sample label if the application is for a seed
22 labeler license; and

23 (c) a list of persons selling seed if the application
24 is for a seed dealer's license.

25 (10) Licensed-seed SEED dealers shall provide with all

1 shipments of seed a bill of lading OR OTHER EVIDENCE OF
2 DELIVERY that includes:
3 (a) the names of:
4 (i) the seller;
5 (ii) the shipper, if other than the seller;
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7 (iv) the receiver, if other than the buyer; and
8 (b) the destination where the seed will be first
9 unloaded."

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

14 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS
15 EFFECTIVE ON PASSAGE AND APPROVAL.

16 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT]
17 TERMINATES JULY 1, 1991.

-End-

1 HOUSE BILL NO. 572

2 INTRODUCED BY DEMARS, JENKINS, STRIZICH,
3 CONNELLY, WESTLAKE, KOEHNKE, GUTHRIE
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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING EMPLOYEES OF
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11 LADING; AND AMENDING SECTIONS 61-10-141 AND 80-5-202, MCA;
12 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION
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15 WHEREAS, the growth and spread of noxious weeds in the
16 State of Montana has become one of the single greatest
17 natural threats to the state's agricultural industry and
18 economy; and

19 WHEREAS, this threat frequently materializes when seeds
20 shipped into this state contain unlawful noxious weed seeds
21 which become planted with agricultural seed crops before the
22 Department of Agriculture has the knowledge and opportunity
23 to embargo the shipment; and

24 WHEREAS, the Legislature of the State of Montana finds
25 it appropriate to use existing Department of Highways

1 personnel and the facilities in the Gross Vehicle Weight
2 Division to obtain bills of lading on all seed shipments
3 into the state and forward the bills of lading to the
4 Montana Department of Agriculture in order to enhance its
5 enforcement capabilities.
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7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Section 61-10-141, MCA, is amended to read:

9 "61-10-141. Officers authorized to weigh vehicles and
10 require removal of excessive loads -- enforcement of motor
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12 for agricultural seeds. (1) A peace officer, officer of the
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18 then require the driver to unload immediately that portion
19 of the load necessary to decrease the weight of the vehicle
20 to conform to the maximum allowable weights specified in
21 61-10-101 through 61-10-110.

22 (2) Commodities and material unloaded as required by
23 this section shall be cared for and removed from the highway
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1 a reasonable time designated by the person who has compelled
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10 (4) The department of highways shall work with the
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1 (b) issue summons;
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10 NEW SECTION. Section 3. Extension of authority. Any
11 existing authority to make rules on the subject of the
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15 EFFECTIVE ON PASSAGE AND APPROVAL.

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17 TERMINATES JULY 1, 1991.

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1 HOUSE BILL NO. 572

2 INTRODUCED BY DEMARS, JENKINS, STRIZICH,

3 CONNELLY, WESTLAKE, KOEHNKE, GUTHRIE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING EMPLOYEES OF
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17 bills of lading OR OTHER EVIDENCE OF DELIVERY for shipment
18 of agricultural seeds as defined in 80-5-120 THAT HAVE BEEN
19 SOLD OR ARE INTENDED FOR SALE IN MONTANA and to forward the
20 copies to the department of agriculture within 24 hours of
21 the date the bill of lading was obtained."

22 Section 2. Section 80-5-202, MCA, is amended to read:

23 "80-5-202. Licensing -- application -- fee. (1) All
24 seed conditioning plants shall obtain a license from the
25 department for each plant before doing business in this

1 state; however, a seed grower, when conditioning seed from
2 his own production, is not required to be licensed under
3 this part.

4 (2) Each conditioning plant must post in a conspicuous
5 location in the facility:

6 (a) its fees for conditioning services; and

7 (b) the license designation for the facility.

8 (3) All seed labelers and growers who label or affix
9 written claims to their seed shall obtain a license from the
10 department before doing business in Montana. The following
11 persons, however, are excluded from the licensing
12 requirements under this subsection:

13 (a) a Montana certified seed grower when labeling
14 certified seed from his own production; and

15 (b) any person who updates germination test data by
16 affixing to the package of seed a supplemental label bearing
17 new germination data, the lot number, and his name and
18 address.

19 (4) No A person may not sell or distribute seed in
20 Montana without obtaining a seed dealer's license from the
21 department for each place where seed is located, except for:

22 (a) a person who distributes seed only in sealed
23 packages of 10 pounds or less that are properly labeled;

24 (b) a Montana certified seed grower when selling
25 certified seed from his own production; and

1 (c) a grain producer when making bin room seed sales.

2 (5) Each person selling seed from a location other
3 than the licensed place must be listed on the application
4 for license.

5 (6) The department shall set by rule the period for
6 which a license is issued under this section.

7 (7) The department may establish by rule minimum
8 standards for equipment and handling procedures for
9 facilities to be licensed.

10 (8) Each license shall cost no more than \$50 a year.
11 The fee must include the cost of application for a license
12 and must be nonrefundable. The department may by rule
13 establish license fees which bear a reasonable relationship
14 to the cost of administering this part.

15 (9) An application for a license under this section
16 must be made in a manner and on forms provided by the
17 department. Such The application must contain among other
18 things:

19 (a) the location of each seed conditioning plant if
20 the application is for a seed conditioning plant license;

21 (b) a sample label if the application is for a seed
22 labeler license; and

23 (c) a list of persons selling seed if the application
24 is for a seed dealer's license.

25 (10) licensed-seed SEED dealers shall provide with all

1 shipments of seed a bill of lading OR OTHER EVIDENCE OF
2 DELIVERY that includes:
3 (a) the names of:
4 (i) the seller;
5 (ii) the shipper, if other than the seller;
6 (iii) the buyer; and
7 (iv) the receiver, if other than the buyer; and
8 (b) the destination where the seed will be first
9 unloaded."

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

14 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS
15 EFFECTIVE ON PASSAGE AND APPROVAL.

16 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT]
17 TERMINATES JULY 1, 1991.

-End-