

SENATE BILL NO. 98

INTRODUCED BY REA

IN THE SENATE

JANUARY 7, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION. FIRST READING.
JANUARY 13, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 14, 1993	PRINTING REPORT. SECOND READING, DO PASS.
JANUARY 15, 1993	ENGROSSING REPORT. THIRD READING, PASSED. AYES, 31; NOES, 17. TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 16, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION. FIRST READING.
FEBRUARY 2, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
FEBRUARY 6, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 9, 1993	ON MOTION, TAKEN FROM SECOND READING AND RETURNED TO COMMITTEE FOR FURTHER CONSIDERATION.
MARCH 18, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 29, 1993	SECOND READING, NOT CONCURRED IN AS AMENDED. SEGREGATED FROM COMMITTEE OF WHOLE REPORT.

MARCH 30, 1993

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 1, 1993

THIRD READING, CONCURRED IN.
AYES, 81; NOES, 16.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 3, 1993

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 6, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 7, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 15, 1993

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 16, 1993

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 17, 1993

FREE CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

APRIL 19, 1993

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 19, 1993

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 20, 1993

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 22, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 98
 2 INTRODUCED BY LEXA
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING
 5 THE LABELING AND SALE OF AGRICULTURAL SEED; REVISING SEED
 6 DEALER LICENSE PROVISIONS, PENALTIES, AND FEES; CREATING A
 7 SEED ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR DEPOSIT
 8 OF SEED FEE REVENUE; AMENDING SECTIONS 80-5-120, 80-5-202,
 9 80-5-207, AND 80-5-208, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."
 11

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because
 14 rulemaking authority is granted in 80-5-207 to the
 15 department of agriculture to adopt rules regarding
 16 administrative civil penalties for violations of the
 17 agricultural seed laws. It is intended that the department
 18 establish a penalty matrix that sets out the kinds of
 19 administrative penalties applicable to violations of the
 20 agricultural seed laws and delineate the degrees of penalty
 21 that may be assessed for initial and subsequent
 22 administrative violations.
 23

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

25 **Section 1.** Section 80-5-120, MCA, is amended to read:

1 "80-5-120. Definitions. As used in this chapter, unless
 2 the context requires otherwise, the following definitions
 3 apply:

4 (1) "Advertise" means to offer seed or grain for sale
 5 by means of newspapers, magazines, pamphlets, signs, or
 6 other printed media or by radio, television, or other
 7 electronic media.

8 (2) "Agricultural seeds" means the seeds of grass,
 9 forage, cereal, fiber crops, and any other kinds of seeds
 10 commonly recognized within this state as agricultural seeds.
 11 The term includes lawn seeds and mixtures of seeds.

12 (3) "Approximate percentage" and "approximate
 13 number" mean the percentage or number with the variations
 14 above and below that value as allowed according to the
 15 tolerance limits defined in the rules for seed testing
 16 adopted by the association of official seed analysts.

17 (4) "Bin-run seed sales" means seed sales from one
 18 farmer to another farmer with seeds sold "as is", without
 19 varietal identification, guaranty, or analysis.

20 (5) "Certifying agency" means:

21 (a) an agency authorized under the laws of a state,
 22 territory, or possession of the United States to officially
 23 certify seed and which that has standards and procedures to
 24 assure the genetic purity and identity of the seed
 25 certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to generally by the seed certifying agencies described in subsection ~~(4)(a)~~(5)(a).

~~(5)(6)~~ "Controlling the pollination" means to use a method of hybridization that will produce pure seed ~~which~~ that is at least 75% hybrid seed. Hybrid designations must be treated as variety names.

~~(6)(7)~~ "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under the name of flower seeds in this state.

~~(7)(8)~~ "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

(c) two or more selected clones, seed lines, varieties, or species.

~~(8)(9)~~ "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs, and legumes.

~~(9)(10)~~ "Labeling" means to affix, before offering the seed for sale, on the exterior of the container in a conspicuous place a label written or printed in the English language that has not been altered, giving the information required under this chapter.

~~(10)(11)~~ "Montana certified seed grower" means a member of an authorized Montana seed certifying agency who has consented to produce seed under the rules for certified classes of seed, with respect to the maintenance of genetic purity and variety identity, set forth by the establishing agency.

~~(11)(12)~~ "Name of the state in which the seed was grown" means any of the several states of the United States or a foreign country.

~~(12)(13)~~ "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

~~(13)(14)~~ "Percentage of germination" means the percentage of seeds that show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the rules for seed testing adopted by the association of official seed analysts.

~~(14)(15)~~ "Percentage viability" means the percentage of

1 live seed capable of producing a normal seedling under
2 optimum growing conditions, after all forms of dormancy have
3 been overcome, if present.

4 {15}{16} "Person" means any individual, firm,
5 partnership, corporation, or association.

6 {16}{17} "Prohibited noxious weed seeds" means the seeds
7 of perennial plants that not only reproduce by seed but also
8 may spread by underground roots, stems, and other
9 reproductive parts and that, when well established, are
10 highly destructive and difficult to control in this state by
11 ordinary good cultural practice. Prohibited noxious weed
12 seeds include the seeds of:

- 13 (a) leafy spurge (*Euphorbia esula*);
- 14 (b) Russian knapweed (*Centaurea repens*); and
- 15 (c) plants that are designated by rule of the
16 department as prohibited noxious weeds.

17 {17}{18} "Protected variety" means a variety for which a
18 certificate has been issued by the United States plant
19 variety protection office or for which an application for
20 protection has been filed granting the owner or his the
21 owner's authorized agent exclusive rights in the sale and
22 distribution of the variety.

23 {18}{19} "Restricted noxious weed seeds" means the seeds
24 and bulbets of any plant designated as restricted weed seeds
25 under rules adopted by the department. The term includes the

1 seeds of:

- 2 (a) spotted knapweed (*Centaurea maculosa*); and
- 3 (b) dyers woad (*Isatis tinctoria*).

4 {19}{20} "Screening" means chaff, sterile florets,
5 immature seed, weed seed, inert matter, and any other
6 materials removed from seed by any kind of cleaning or
7 conditioning.

8 {20}{21} "Seed conditioning plant" means any place of
9 business that repackages, conditions, blends, treats, or
10 otherwise manipulates agricultural seeds.

11 {21}{22} "Seed dealer" means any person who offers for
12 sale, sells, or barter agricultural seeds.

13 {22}{23} "Seed labeler" means any person affixing labels
14 to agricultural seeds, with his the person's name and
15 address listed as required in 80-5-102, when such the seed
16 is distributed in Montana.

17 {23}{24} "Sell" means to offer for sale, expose for
18 sale, have in possession for sale, exchange, barter, or
19 trade. The term includes furnishing agricultural seed to
20 growers for the production of a crop on contract.

21 {24}{25} "Vegetable seeds" means seeds of those crops
22 that are or may be grown in gardens or on truck farms and
23 are or may be sold generally under the name of vegetable
24 seeds.

25 {25}{26} "Weed seeds" means the seeds or bulbets of all

plants generally recognized as weeds within this state and includes noxious weed seeds."

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 the grower's own production, is not required to be licensed under this part.

(2) Each conditioning plant ~~must~~ shall post in a conspicuous location in the facility:

(a) its fees for conditioning services; and

(b) the license designation for the facility.

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

(a) a Montana certified seed grower when labeling certified seed from his the grower's own production; and

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

(4) A person may not sell or distribute seed in Montana

without obtaining a seed dealer's license from the department for each place where seed is located, except for:

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

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

(c) a grain producer when making bin-run seed sales that are not advertised.

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

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

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

(8) Each license ~~shall~~ may cost no more than \$50 \$200 a year. The fee must include the cost of application for a license and must be nonrefundable. The department may by rule establish license fees ~~which~~ that bear a reasonable relationship to the cost of administering this part.

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

(a) the location of each seed conditioning plant if the

1 application is for a seed conditioning plant license;

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

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

6 (10) Seed dealers shall provide with all shipments of
7 seed a bill of lading or other evidence of delivery that
8 includes:

9 (a) the names of:

10 (i) the seller;

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

12 (iii) the buyer; and

13 (iv) the receiver, if other than the buyer; and

14 (b) the destination where the seed will be first
15 unloaded."

16 **Section 3.** Section 80-5-207, MCA, is amended to read:

17 "80-5-207. Violation -- cancellation of license --
18 enforcement proceedings. (1) Distribution of seeds that are
19 not legally labeled or failure to comply with this chapter
20 or rules issued under its authority constitutes sufficient
21 grounds for the department to cancel or deny a license to a
22 licensee, provided that the licensee is given a reasonable
23 opportunity to correct inadvertent and nonrecurring
24 deficiencies.

25 (2) A person who violates or aids in the violation of

1 any provision of this chapter or rules adopted under this
2 chapter is subject to one or both of the following
3 penalties:

4 (a) an administrative civil penalty of not more than
5 \$1,000 for each offense. Assessment of a penalty under this
6 subsection (a) may be made in conjunction with any other
7 warning, order, or administrative action by the department
8 under the authority of this part.

9 (b) ~~Any person convicted of violating the provisions of~~
10 ~~this part or rules promulgated under the authority of this~~
11 ~~part is guilty of a misdemeanor and shall be fined~~
12 ~~punishable by a fine of~~ not less than \$100 or more than \$300
13 for the first violation and not less than \$500 or more than
14 \$1,000 for each subsequent violation.

15 (3) The department shall establish by rule a penalty
16 matrix that schedules the types of penalties, the amounts
17 for initial and subsequent offenses, and any other matters
18 necessary for the administration of civil penalties under
19 subsection (2)(a). The issuance of a civil penalty is
20 subject to the contested case procedures of Title 2, chapter
21 4, part 6.

22 ~~(3)(4)~~ (4) Nothing in this part ~~shall~~ may be construed as
23 requiring the department or its representatives to report
24 violations of this part when it believes that the public
25 interest will be best served by a suitable notice of

1 warning.

2 {4}(5) It is the duty of each county attorney to whom
3 any violation is reported to cause appropriate proceedings
4 to be instituted and prosecuted in a court of competent
5 jurisdiction without delay.

6 {5}(6) The department is authorized to apply for and
7 the court to grant a temporary or permanent injunction
8 restraining any person from violating or continuing to
9 violate any of the provisions of this part or any rule
10 promulgated under this part notwithstanding the existence of
11 other remedies at law. An injunction is issued without bond.

12 {6}(7) Any person adversely affected by an act, order,
13 or ruling made pursuant to the provisions of this part may
14 within 30 days bring action in the district court of the
15 county or any county where the alleged violation occurred
16 for trial of the issues bearing upon such the act."

17 **Section 4.** Section 80-5-208, MCA, is amended to read:

18 "80-5-208. Deposit of funds -- seed account. ~~All money~~
19 ~~collected--under--the--provisions--of--this--part--shall--be~~
20 ~~deposited--to--the--general--fund.~~ (1) There is an account in
21 the state special revenue fund to be known as the seed
22 account. All inspection, license, and penalty fee revenue
23 collected under this chapter must be deposited in the seed
24 account.

25 (2) Money received as revenue under this chapter not

1 immediately required for the purposes of this chapter must
2 be invested under the provisions of the unified investment
3 program established in Title 17, chapter 6, part 2. All
4 interest earned on the seed account must be deposited in the
5 seed account."

6 **NEW SECTION. Section 5.** Effective date. [This act] is
7 effective July 1, 1993.

-End-

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

SENATE BILL NO. 98

INTRODUCED BY REA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE LABELING AND SALE OF AGRICULTURAL SEED; REVISING SEED DEALER LICENSE PROVISIONS, PENALTIES, AND FEES; CREATING A SEED ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR DEPOSIT OF SEED FEE REVENUE; AMENDING SECTIONS 80-5-120, 80-5-202, 80-5-207, AND 80-5-208, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is granted in 80-5-207 to the department of agriculture to adopt rules regarding administrative civil penalties for violations of the agricultural seed laws. It is intended that the department establish a penalty matrix that sets out the kinds of administrative penalties applicable to violations of the agricultural seed laws and delineate the degrees of penalty that may be assessed for initial and subsequent administrative violations.

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

Section 1. Section 80-5-120, MCA, is amended to read:

"80-5-120. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

~~(1) "Advertise"--means--to--offer--seed--or--grain--for--sale by--means--of--newspapers,--magazines,--pamphlets,--signs,--or other--printed--media--or--by--radio,--television,--or--other electronic-media;~~

~~(2)(1)~~ "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and mixtures of seeds.

~~(2)(3)(2)~~ "Approximate percentage" and "approximate number" mean the percentage or number with the variations above and below that value as allowed according to the tolerance limits defined in the rules for seed testing adopted by the association of official seed analysts.

~~(3)(4)(3)~~ "Bin-run seed sales" means seed sales from one farmer to another farmer with seeds sold "as is", without varietal identification, guaranty, or analysis.

~~(4)(5)(4)~~ "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which that has standards and procedures to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to generally by the seed certifying agencies described in subsection (4)(a)(5)(a)(4)(A).

(5)(6)(5) "Controlling the pollination" means to use a method of hybridization that will produce pure seed which that is at least 75% hybrid seed. Hybrid designations must be treated as variety names.

(6)(7)(6) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under the name of flower seeds in this state.

(7)(8)(7) "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

(c) two or more selected clones, seed lines, varieties, or species.

(8)(9)(8) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs, and legumes.

(9)(10)(9) "Labeling" means to affix, before offering the seed for sale, on the exterior of the container in a conspicuous place a label written or printed in the English language that has not been altered, giving the information required under this chapter.

(10)(11)(10) "Montana certified seed grower" means a member of an authorized Montana seed certifying agency who has consented to produce seed under the rules for certified classes of seed, with respect to the maintenance of genetic purity and variety identity, set forth by the establishing agency.

(11)(12)(11) "Name of the state in which the seed was grown" means any of the several states of the United States or a foreign country.

(12)(13)(12) "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

(13)(14)(13) "Percentage of germination" means the percentage of seeds that show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the rules for seed testing adopted by the association of official seed analysts.

(14)(15)(14) "Percentage viability" means the percentage

1 of live seed capable of producing a normal seedling under
2 optimum growing conditions, after all forms of dormancy have
3 been overcome, if present.

4 {15}{16}{15} "Person" means any individual, firm,
5 partnership, corporation, or association.

6 {16}{17}{16} "Prohibited noxious weed seeds" means the
7 seeds of perennial plants that not only reproduce by seed
8 but also may spread by underground roots, stems, and other
9 reproductive parts and that, when well established, are
10 highly destructive and difficult to control in this state by
11 ordinary good cultural practice. Prohibited noxious weed
12 seeds include the seeds of:

- 13 (a) leafy spurge (*Euphorbia esula*);
- 14 (b) Russian knapweed (*Centaurea repens*); and
- 15 (c) plants that are designated by rule of the
16 department as prohibited noxious weeds.

17 {17}{18}{17} "Protected variety" means a variety for
18 which a certificate has been issued by the United States
19 plant variety protection office or for which an application
20 for protection has been filed granting the owner or his the
21 owner's authorized agent exclusive rights in the sale and
22 distribution of the variety.

23 {18}{19}{18} "Restricted noxious weed seeds" means the
24 seeds and bulbets of any plant designated as restricted weed
25 seeds under rules adopted by the department. The term

1 includes the seeds of:

- 2 (a) spotted knapweed (*Centaurea maculosa*); and
- 3 (b) dyers woad (*Isatis tinctoria*).

4 {19}{20}{19} "Screening" means chaff, sterile florets,
5 immature seed, weed seed, inert matter, and any other
6 materials removed from seed by any kind of cleaning or
7 conditioning.

8 {20}{21}{20} "Seed conditioning plant" means any place
9 of business that repackages, conditions, blends, treats, or
10 otherwise manipulates agricultural seeds.

11 {21}{22}{21} "Seed dealer" means any person who offers
12 for sale, sells, or barter agricultural seeds.

13 {22}{23}{22} "Seed labeler" means any person affixing
14 labels to agricultural seeds, with his the person's name and
15 address listed as required in 80-5-102, when such the seed
16 is distributed in Montana.

17 {23}{24}{23} "Sell" means to offer for sale, expose for
18 sale, have in possession for sale, exchange, barter, or
19 trade. The term includes furnishing agricultural seed to
20 growers for the production of a crop on contract.

21 {24}{25}{24} "Vegetable seeds" means seeds of those
22 crops that are or may be grown in gardens or on truck farms
23 and are or may be sold generally under the name of vegetable
24 seeds.

25 {25}{26}{25} "Weed seeds" means the seeds or bulbets of

plants generally recognized as weeds within this state and includes noxious weed seeds."

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 the grower's own production, is not required to be licensed under this part.

(2) Each conditioning plant ~~must~~ shall post in a conspicuous location in the facility:

(a) its fees for conditioning services; and

(b) the license designation for the facility.

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

(a) a Montana certified seed grower when labeling certified seed from his the grower's own production; and

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

(4) A person may not sell or distribute seed in Montana

without obtaining a seed dealer's license from the department for each place where seed is located, except for:

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

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

~~(c) a grain producer when making bin-run seed sales that-are-not-advertised.~~

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

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

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

(8) Each license ~~shall~~ may cost no more than \$50 \$200 a year. The fee must include the cost of application for a license and must be nonrefundable. The department may by rule establish license fees ~~which~~ that bear a reasonable relationship to the cost of administering this part.

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

(a) the location of each seed conditioning plant if the

1 application is for a seed conditioning plant license;
 2 (b) a sample label if the application is for a seed
 3 labeler license; and
 4 (c) a list of persons selling seed if the application
 5 is for a seed dealer's license.
 6 (10) Seed dealers shall provide with all shipments of
 7 seed a bill of lading or other evidence of delivery that
 8 includes:
 9 (a) the names of:
 10 (i) the seller;
 11 (ii) the shipper, if other than the seller;
 12 (iii) the buyer; and
 13 (iv) the receiver, if other than the buyer; and
 14 (b) the destination where the seed will be first
 15 unloaded."

16 **Section 3.** Section 80-5-207, MCA, is amended to read:

17 "80-5-207. Violation -- cancellation of license --
 18 enforcement proceedings. (1) Distribution of seeds that are
 19 not legally labeled or failure to comply with this chapter
 20 or rules issued under its authority constitutes sufficient
 21 grounds for the department to cancel or deny a license to a
 22 licensee, provided that the licensee is given a reasonable
 23 opportunity to correct inadvertent and nonrecurring
 24 deficiencies.

25 (2) A person who violates or aids in the violation of

1 any provision of this chapter or rules adopted under this
 2 chapter is subject to one or both of the following
 3 penalties:

4 (a) an administrative civil penalty of not more than
 5 \$1,000 for each offense. Assessment of a penalty under this
 6 subsection (a) may be made in conjunction with any other
 7 warning, order, or administrative action by the department
 8 under the authority of this part.

9 (b) Any person convicted of violating the provisions of
 10 this part or rules promulgated under the authority of this
 11 part is guilty of a misdemeanor and shall be fined
 12 punishable by a fine of not less than \$100 or more than \$300
 13 for the first violation and not less than \$500 or more than
 14 \$1,000 for each subsequent violation.

15 (3) The department shall establish by rule a penalty
 16 matrix that schedules the types of penalties, the amounts
 17 for initial and subsequent offenses, and any other matters
 18 necessary for the administration of civil penalties under
 19 subsection (2)(a). The issuance of a civil penalty is
 20 subject to the contested case procedures of Title 2, chapter
 21 4, part 6.

22 ~~{3}~~(4) Nothing in this part shall may be construed as
 23 requiring the department or its representatives to report
 24 violations of this part when it believes that the public
 25 interest will be best served by a suitable notice of

1 warning.

2 †4†(5) It is the duty of each county attorney to whom
3 any violation is reported to cause appropriate proceedings
4 to be instituted and prosecuted in a court of competent
5 jurisdiction without delay.

6 †5†(6) The department is authorized to apply for and
7 the court to grant a temporary or permanent injunction
8 restraining any person from violating or continuing to
9 violate any of the provisions of this part or any rule
10 promulgated under this part notwithstanding the existence of
11 other remedies at law. An injunction is issued without bond.

12 †6†(7) Any person adversely affected by an act, order,
13 or ruling made pursuant to the provisions of this part may
14 within 30 days bring action in the district court of the
15 county or any county where the alleged violation occurred
16 for trial of the issues bearing upon such the act."

17 **Section 4.** Section 80-5-208, MCA, is amended to read:

18 "80-5-208. Deposit of funds -- seed account. ~~All money~~
19 ~~collected--under--the--provisions--of--this--part--shall--be~~
20 ~~deposited-to-the-general-fund.~~ (1) There is an account in
21 the state special revenue fund to be known as the seed
22 account. All inspection, license, and penalty fee revenue
23 collected under this chapter must be deposited in the seed
24 account.

25 (2) Money received as revenue under this chapter not

1 immediately required for the purposes of this chapter must
2 be invested under the provisions of the unified investment
3 program established in Title 17, chapter 6, part 2. All
4 interest earned on the seed account must be deposited in the
5 seed account."

6 **NEW SECTION. Section 5.** Effective date. [This act] is
7 effective July 1, 1993.

-End-

SENATE BILL NO. 98

INTRODUCED BY REA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE LABELING AND SALE OF AGRICULTURAL SEED; REVISING SEED DEALER LICENSE PROVISIONS, PENALTIES, AND FEES; CREATING A SEED ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR DEPOSIT OF SEED FEE REVENUE; AMENDING SECTIONS 80-5-120, 80-5-202, 80-5-207, AND 80-5-208, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is granted in 80-5-207 to the department of agriculture to adopt rules regarding administrative civil penalties for violations of the agricultural seed laws. It is intended that the department establish a penalty matrix that sets out the kinds of administrative penalties applicable to violations of the agricultural seed laws and delineate the degrees of penalty that may be assessed for initial and subsequent administrative violations.

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

Section 1. Section 80-5-120, MCA, is amended to read:

"80-5-120. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Advertise" means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other electronic media.

(2)(1) "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and mixtures of seeds.

(2)(3)(2) "Approximate percentage" and "approximate number" mean the percentage or number with the variations above and below that value as allowed according to the tolerance limits defined in the rules for seed testing adopted by the association of official seed analysts.

(3)(4)(3) "Bin-run seed sales" means seed sales from one farmer to another farmer with seeds sold "as is", without varietal identification, guaranty, or analysis.

(4)(5)(4) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which that has standards and procedures to assure the genetic purity and identity of the seed certified; or

1 (b) an agency of a foreign country determined by the
2 department to adhere to procedures and standards for seed
3 certification that are comparable to those adhered to
4 generally by the seed certifying agencies described in
5 subsection (4)(a)(5)(a)(4)(A).

6 (5)(6)(5) "Controlling the pollination" means to use a
7 method of hybridization that will produce pure seed which
8 that is at least 75% hybrid seed. Hybrid designations must
9 be treated as variety names.

10 (6)(7)(6) "Flower seeds" means seeds of herbaceous
11 plants grown for their blooms, ornamental foliage, or other
12 ornamental parts and that are commonly known and sold under
13 the name of flower seeds in this state.

14 (7)(8)(7) "Hybrid", as the term applies to varieties of
15 seed, means the first generation seed of a cross produced by
16 controlling the pollination and by combining:

17 (a) two or more inbred lines;

18 (b) one inbred or a single cross with an open
19 pollinated variety; or

20 (c) two or more selected clones, seed lines, varieties,
21 or species.

22 (8)(9)(8) "Indigenous seeds" means the seeds of those
23 plants that are naturally adapted to an area where the
24 intended use is for revegetation of disturbed sites. These
25 plants include grasses, forbs, shrubs, and legumes.

1 (9)(10)(9) "Labeling" means to affix, before offering
2 the seed for sale, on the exterior of the container in a
3 conspicuous place a label written or printed in the English
4 language that has not been altered, giving the information
5 required under this chapter.

6 (10)(11)(10) "Montana certified seed grower" means a
7 member of an authorized Montana seed certifying agency who
8 has consented to produce seed under the rules for certified
9 classes of seed, with respect to the maintenance of genetic
10 purity and variety identity, set forth by the establishing
11 agency.

12 (11)(12)(11) "Name of the state in which the seed was
13 grown" means any of the several states of the United States
14 or a foreign country.

15 (12)(13)(12) "Other crop seeds" means any agricultural,
16 vegetable, or flower seeds other than the seed or the
17 mixture of seeds under consideration.

18 (13)(14)(13) "Percentage of germination" means the
19 percentage of seeds that show normal sprouts as evidence of
20 vitality when the seeds are subjected to the proper moisture
21 and temperature conditions with proper aeration for the
22 customary length of time for each specific kind of seed, as
23 specified in the rules for seed testing adopted by the
24 association of official seed analysts.

25 (14)(15)(14) "Percentage viability" means the percentage

1 of live seed capable of producing a normal seedling under
2 optimum growing conditions, after all forms of dormancy have
3 been overcome, if present.

4 {15}{16}{15} "Person" means any individual, firm,
5 partnership, corporation, or association.

6 {16}{17}{16} "Prohibited noxious weed seeds" means the
7 seeds of perennial plants that not only reproduce by seed
8 but also may spread by underground roots, stems, and other
9 reproductive parts and that, when well established, are
10 highly destructive and difficult to control in this state by
11 ordinary good cultural practice. Prohibited noxious weed
12 seeds include the seeds of:

- 13 (a) leafy spurge (*Euphorbia esula*);
- 14 (b) Russian knapweed (*Centaurea repens*); and
- 15 (c) plants that are designated by rule of the
16 department as prohibited noxious weeds.

17 {17}{18}{17} "Protected variety" means a variety for
18 which a certificate has been issued by the United States
19 plant variety protection office or for which an application
20 for protection has been filed granting the owner or his the
21 owner's authorized agent exclusive rights in the sale and
22 distribution of the variety.

23 {18}{19}{18} "Restricted noxious weed seeds" means the
24 seeds and bulbets of any plant designated as restricted weed
25 seeds under rules adopted by the department. The term

1 includes the seeds of:

- 2 (a) spotted knapweed (*Centaurea maculosa*); and
- 3 (b) dyers woad (*Isatis tinctoria*).

4 {19}{20}{19} "Screening" means chaff, sterile florets,
5 immature seed, weed seed, inert matter, and any other
6 materials removed from seed by any kind of cleaning or
7 conditioning.

8 {20}{21}{20} "Seed conditioning plant" means any place
9 of business that repackages, conditions, blends, treats, or
10 otherwise manipulates agricultural seeds.

11 {21}{22}{21} "Seed dealer" means any person who offers
12 for sale, sells, or barter agricultural seeds.

13 {22}{23}{22} "Seed labeler" means any person affixing
14 labels to agricultural seeds, with his the person's name and
15 address listed as required in 80-5-102, when such the seed
16 is distributed in Montana.

17 {23}{24}{23} "Sell" means to offer for sale, expose for
18 sale, have in possession for sale, exchange, barter, or
19 trade. The term includes furnishing agricultural seed to
20 growers for the production of a crop on contract.

21 {24}{25}{24} "Vegetable seeds" means seeds of those
22 crops that are or may be grown in gardens or on truck farms
23 and are or may be sold generally under the name of vegetable
24 seeds.

25 {25}{26}{25} "Weed seeds" means the seeds or bulbets of

all plants generally recognized as weeds within this state and includes noxious weed seeds."

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 the grower's own production, is not required to be licensed under this part.

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

(a) its fees for conditioning services; and

(b) the license designation for the facility.

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

(a) a Montana certified seed grower when labeling certified seed from his the grower's own production; and

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

(4) A person may not sell or distribute seed in Montana

without obtaining a seed dealer's license from the department for each place where seed is located, except for:

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

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

~~te) a grain producer when making bin-run seed sales that-are-not-advertised.~~

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

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

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

(8) Each license ~~shall~~ may cost no more than \$50 \$200 a year. The fee must include the cost of application for a license and must be nonrefundable. The department may by rule establish license fees which that bear a reasonable relationship to the cost of administering this part.

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

(a) the location of each seed conditioning plant if the

1 application is for a seed conditioning plant license;

2 (b) a sample label if the application is for a seed

3 labeler license; and

4 (c) a list of persons selling seed if the application

5 is for a seed dealer's license.

6 (10) Seed dealers shall provide with all shipments of

7 seed a bill of lading or other evidence of delivery that

8 includes:

9 (a) the names of:

10 (i) the seller;

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

12 (iii) the buyer; and

13 (iv) the receiver, if other than the buyer; and

14 (b) the destination where the seed will be first

15 unloaded."

16 **Section 3.** Section 80-5-207, MCA, is amended to read:

17 "80-5-207. Violation -- cancellation of license --

18 enforcement proceedings. (1) Distribution of seeds that are

19 not legally labeled or failure to comply with this chapter

20 or rules issued under its authority constitutes sufficient

21 grounds for the department to cancel or deny a license to a

22 licensee, provided that the licensee is given a reasonable

23 opportunity to correct inadvertent and nonrecurring

24 deficiencies.

25 (2) A person who violates or aids in the violation of

1 any provision of this chapter or rules adopted under this

2 chapter is subject to one or both of the following

3 penalties:

4 (a) an administrative civil penalty of not more than

5 \$1,000 for each offense. Assessment of a penalty under this

6 subsection (a) may be made in conjunction with any other

7 warning, order, or administrative action by the department

8 under the authority of this part.

9 (b) Any person convicted of violating the provisions of

10 this part or rules promulgated under the authority of this

11 part is guilty of a misdemeanor and shall be fined

12 punishable by a fine of not less than \$100 or more than \$300

13 for the first violation and not less than \$500 or more than

14 \$1,000 for each subsequent violation.

15 (3) The department shall establish by rule a penalty

16 matrix that schedules the types of penalties, the amounts

17 for initial and subsequent offenses, and any other matters

18 necessary for the administration of civil penalties under

19 subsection (2)(a). The issuance of a civil penalty is

20 subject to the contested case procedures of Title 2, chapter

21 4, part 6.

22 (3)(4) Nothing in this part shall may be construed as

23 requiring the department or its representatives to report

24 violations of this part when it believes that the public

25 interest will be best served by a suitable notice of

1 warning.

2 {4}(5) It is the duty of each county attorney to whom
3 any violation is reported to cause appropriate proceedings
4 to be instituted and prosecuted in a court of competent
5 jurisdiction without delay.

6 {5}(6) The department is authorized to apply for and
7 the court to grant a temporary or permanent injunction
8 restraining any person from violating or continuing to
9 violate any of the provisions of this part or any rule
10 promulgated under this part notwithstanding the existence of
11 other remedies at law. An injunction is issued without bond.

12 {6}(7) Any person adversely affected by an act, order,
13 or ruling made pursuant to the provisions of this part may
14 within 30 days bring action in the district court of the
15 county or any county where the alleged violation occurred
16 for trial of the issues bearing upon such the act."

17 **Section 4.** Section 80-5-208, MCA, is amended to read:

18 "80-5-208. Deposit of funds -- seed account. All money
19 collected under the provisions of this part shall be
20 deposited to the general fund. (1) There is an account in
21 the state special revenue fund to be known as the seed
22 account. All inspection, license, and penalty fee revenue
23 collected under this chapter must be deposited in the seed
24 account.

25 (2) Money received as revenue under this chapter not

1 immediately required for the purposes of this chapter must
2 be invested under the provisions of the unified investment
3 program established in Title 17, chapter 6, part 2. All
4 interest earned on the seed account must be deposited in the
5 seed account."

6 **NEW SECTION. Section 5.** Effective date. [This act] is
7 effective July 1, 1993.

-End-

HOUSE STANDING COMMITTEE REPORT

February 1, 1993
Page 2 of 2

February 1, 1993
Page 1 of 2

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 98 (third reading copy -- blue) be concurred in as amended.

Signed: Vern Keller
Vern Keller, Chair

And, that such amendments read: Carried by: Rep. Schwinden

1. Page 1, line 14.
Following: "granted in"
Insert: "80-5-202(8) and in"

2. Page 1, line 17
Following: "laws"
Insert: "and rules establishing a seed dealer's license fee"

3. Page 1, line 22.
Following: "violations."
Insert: "It is further intended that the department establish a two-tiered license fee schedule under which a licensee with gross annual sales of \$5,000 or less shall pay a lower fee than a licensee with gross annual sales in excess of \$5,000."

4. Page 2, line 7.
Following: "~~media~~."
Insert: "(1) Advertise means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other electronic media."
Renumber: subsequent subsections

5. Page 2, line 19.
Strike: "varietal identification,"
Following: "guaranty"
Strike: "L"

6. Page 3, line 5.
Strike: "(4) (A)"
Insert: "(5) (a)"

7. Page 8, line 4.
Strike: "and"

8. Page 8, line 6.
Following: "~~and~~"
Insert: "a Montana seed grower when selling seed from the grower's own production to a licensed seed dealer; and"

9. Page 8, lines 7 and 8.
Following: "~~(c)~~" on line 7
Insert: "(c)"
Following: "seed"
Insert: "seed"
Following: "advertised" on line 8
Insert: "that are not advertised by varietal identification"

10. Page 8, line 18.
Following: "year."
Insert: "The department shall establish by rule a lower license fee for a seed dealer with gross annual sales of \$5,000 or less."

-END-

HOUSE
SB 98

Committee Vote:
Yes 14, No 2.

251356SC.Hpf

251356SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 17, 1993
Page 2 of 2

March 17, 1993
Page 1 of 2

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 98 (third reading copy -- blue) be concurred in as amended.

Signed: Vern Keller
Vern Keller, Chair

And, that such amendments read: Carried by: Rep. Barnett

Amend House Committee on Agriculture, Livestock, and Irrigation report dated February 1, 1993, as follows:

Strike: House Committee on Agriculture, Livestock, and Irrigation report, sponsored by Rep. Schwinden, in its entirety.

Further amend Senate Bill No. 98, third reading copy, as follows:

1. Title, line 10.
Following: "DATE"
Insert: "AND A TERMINATION DATE"

2. Page 1, line 14.
Following: "granted in"
Insert: "80-5-202(8) and in"

3. Page 1, line 17.
Following: "laws"
Insert: "and rules establishing a seed dealer's license fee"

4. Page 1, line 22.
Following: "violations."
Insert: "It is further intended that the department establish a two-tiered license fee schedule under which a licensee with gross annual sales of \$5,000 or less shall pay a lower fee than a licensee with gross annual sales in excess of \$5,000."

5. Page 2, line 7.
Following: "~~media~~."
Insert: "(1) 'Advertise' means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other

electronic media."
Renumber: subsequent subsections

6. Page 2, line 19.
Strike: "varietal identification."
Following: "guaranty"
Strike: "1"

7. Page 3, line 5.
Strike: "(4) (A)"
Insert: "(5) (a)"

8. Page 8, line 4.
Strike: "and"

9. Page 8, line 6.
Following: "and"
Insert: "a Montana-certified seed grower when selling certified seed from the grower's own production; and"

10. Page 8, line 7.
Following: "~~(c)~~"
Insert: "(c)"
Following: "seed"
Insert: "seed"

11. Page 8, line 8.
Following: "advertised"
Insert: "that are not advertised by varietal identification;
(d) a person, who at the conclusion of planting, sells less than 200 bushels of treated seed; and
(e) a Montana seed grower when selling seed from the grower's own production to a licensed seed dealer"

12. Page 8, line 17.
Strike: "\$200"
Insert: "\$150"

13. Page 8, line 18.
Following: "year."
Insert: "The department shall establish by rule a lower license fee for a seed dealer with gross annual sales of \$5,000 or less."

14. Page 12.
Following: line 7
Insert: "NEW SECTION. Section 6. Termination. [This act] terminates June 30, 1995."

-END-

Committee Vote:
Yes 10, No 1.

STOVALL NO

601359SC.Hpf

HOUSE
SB 98
601359SC.Hpf

#1

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 98
Representative Bachini

March 29, 1993 3:13 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 98 (Agriculture, Livestock, and Irrigation Committee amendments dated February 1, 1993 and third reading copy -- blue).

Signed: Rep Bob Bachini
Representative Bachini

And, that such amendments to the Agriculture, Livestock, and Irrigation Committee amendments dated March 17, 1993 read as follows:

1. Strike: items 2 through 13 from the Agriculture, Livestock, and Irrigation Committee amendments (dated March 17, 1993) in their entirety. [leave effective date]

And amend Senate Bill 98 (third reading copy -- blue) further as follows:

2. Page 2, line 19.

Strike: "varietal identification,"

Following: "guaranty"

Strike: "L"

3. Page 8, line 4.

Strike: "and"

4. Page 8, line 6.

Following: "~~and~~"

Insert: "a Montana certified seed grower when selling certified seed from his own production, and"

5. Page 8, line 7.

Following: "~~(c)~~" on line 7

Insert: "(c)"

Following: "~~seed~~"

Insert: "seed"

6. Page 8, line 17.

Strike: "\$200"

Insert: "\$150"

ADOPT

REJECT

SB 98

HOUSE

701513CW.Hss

1 SENATE BILL NO. 98
 2 INTRODUCED BY REA
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING
 5 THE LABELING AND SALE OF AGRICULTURAL SEED; REVISING SEED
 6 DEALER LICENSE PROVISIONS, PENALTIES, AND FEES; CREATING A
 7 SEED ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR DEPOSIT
 8 OF SEED FEE REVENUE; AMENDING SECTIONS 80-5-120, 80-5-202,
 9 80-5-207, AND 80-5-208, MCA; AND PROVIDING AN EFFECTIVE DATE
 10 AND A TERMINATION DATE."

11
 12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because
 14 rulemaking authority is granted in 80-5-202(8)-AND-IN
 15 80-5-202(8)-AND-IN 80-5-207 to the department of agriculture
 16 to adopt rules regarding administrative civil penalties for
 17 violations of the agricultural seed laws AND---RULES
 18 ESTABLISHING---A---SEED---DEALER'S---LICENSE---FEE AND---RULES
 19 ESTABLISHING-A-SEED-DEALER'S-LICENSE-FEE. It is intended
 20 that the department establish a penalty matrix that sets out
 21 the kinds of administrative penalties applicable to
 22 violations of the agricultural seed laws and delineate the
 23 degrees of penalty that may be assessed for initial and
 24 subsequent administrative violations. IT-IS-FURTHER-INTENDED
 25 THAT-THE-DEPARTMENT-ESTABLISH-A-TWO-TIERED-LICENSE-FEE

1 SCHEDULE--UNDER--WHICH-A-LICENSEE-WITH-GROSS-ANNUAL-SALES-OF
 2 \$5,000-OR-LESS-SHALL-PAY-A-LOWER-FEE-THAN--A--LICENSEE--WITH
 3 GROSS--ANNUAL--SALES--IN--EXCESS--OF--\$5,000. IT-IS-FURTHER
 4 INTENDED-THAT-THE-DEPARTMENT-ESTABLISH-A-TWO-TIERED--LICENSE
 5 FEE--SCHEDULE-UNDER-WHICH-A-LICENSEE-WITH-GROSS-ANNUAL-SALES
 6 OF-\$5,000-OR-LESS-SHALL-PAY-A-LOWER-FEE-THAN-A-LICENSEE-WITH
 7 GROSS-ANNUAL-SALES-IN-EXCESS-OF-\$5,000.

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 80-5-120, MCA, is amended to read:

11 "80-5-120. Definitions. As used in this chapter, unless
 12 the context requires otherwise, the following definitions
 13 apply:

14 {i}--"Advertise"--means--to--offer--seed--or--grain--for--sale
 15 by--means--of--newspapers,--magazines,--pamphlets,--signs,--or
 16 other--printed--media--or--by--radio,--television,--or--other
 17 electronic-media;

18 {i}--"ADVERTISE"--MEANS--TO--OFFER--SEED--OR--GRAIN--FOR--SALE
 19 BY--MEANS--OF--NEWSPAPERS,--MAGAZINES,--PAMPHLETS,--SIGNS,--OR
 20 OTHER-PRINTED-MEDIA--OR--BY--RADIO,--TELEVISION,--OR--OTHER
 21 ELECTRONIC-MEDIA;

22 {i}--"ADVERTISE"--MEANS--TO--OFFER--SEED--OR--GRAIN--FOR--SALE
 23 BY--MEANS--OF--NEWSPAPERS,--MAGAZINES,--PAMPHLETS,--SIGNS,--OR
 24 OTHER--PRINTED--MEDIA--OR--BY--RADIO,--TELEVISION,--OR--OTHER
 25 ELECTRONIC-MEDIA;

(2)(1)(2)(1)(2)(1) "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and mixtures of seeds.

(2)(3)(2)(3)(2)(3)(2) "Approximate percentage" and "approximate number" mean the percentage or number with the variations above and below that value as allowed according to the tolerance limits defined in the rules for seed testing adopted by the association of official seed analysts.

(3)(4)(3)(4)(3)(4)(3) "Bin-run seed sales" means seed sales from one farmer to another farmer with seeds sold "as is", without varieta1-----identification7 VAR1ETAB IDENT1F1CAT1ON7 VAR1ETAB--IDENT1F1CAT1ON7 guaranty777 or analysis.

(4)(5)(4)(5)(4)(5)(4) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which that has standards and procedures to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to

generally by the seed certifying agencies described in subsection (4)(a) (5)(a) (4)(A) (5)(A) (4)(A) (5)(A) (4)(A).

(5)(6)(5)(6)(5)(6)(5) "Controlling the pollination" means to use a method of hybridization that will produce pure seed which that is at least 75% hybrid seed. Hybrid designations must be treated as variety names.

(6)(7)(6)(7)(6)(7)(6) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under the name of flower seeds in this state.

(7)(8)(7)(8)(7)(8)(7) "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

(c) two or more selected clones, seed lines, varieties, or species.

(8)(9)(8)(9)(8)(9)(8) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs, and legumes.

(9)(10)(9)(10)(9)(10)(9) "Labeling" means to affix,

1 before offering the seed for sale, on the exterior of the
2 container in a conspicuous place a label written or printed
3 in the English language that has not been altered, giving
4 the information required under this chapter.

5 (10)(11)(10)(11)(10)(11)(10) "Montana certified seed
6 grower" means a member of an authorized Montana seed
7 certifying agency who has consented to produce seed under
8 the rules for certified classes of seed, with respect to the
9 maintenance of genetic purity and variety identity, set
10 forth by the establishing agency.

11 (11)(12)(11)(12)(11)(12)(11) "Name of the state in which
12 the seed was grown" means any of the several states of the
13 United States or a foreign country.

14 (12)(13)(12)(13)(12)(13)(12) "Other crop seeds" means
15 any agricultural, vegetable, or flower seeds other than the
16 seed or the mixture of seeds under consideration.

17 (13)(14)(13)(14)(13)(14)(13) "Percentage of germination"
18 means the percentage of seeds that show normal sprouts as
19 evidence of vitality when the seeds are subjected to the
20 proper moisture and temperature conditions with proper
21 aeration for the customary length of time for each specific
22 kind of seed, as specified in the rules for seed testing
23 adopted by the association of official seed analysts.

24 (14)(15)(14)(15)(14)(15)(14) "Percentage viability"
25 means the percentage of live seed capable of producing a

1 normal seedling under optimum growing conditions, after all
2 forms of dormancy have been overcome, if present.

3 (15)(16)(15)(16)(15)(16)(15) "Person" means any
4 individual, firm, partnership, corporation, or association.

5 (16)(17)(16)(17)(16)(17)(16) "Prohibited noxious weed
6 seeds" means the seeds of perennial plants that not only
7 reproduce by seed but also may spread by underground roots,
8 stems, and other reproductive parts and that, when well
9 established, are highly destructive and difficult to control
10 in this state by ordinary good cultural practice. Prohibited
11 noxious weed seeds include the seeds of:

12 (a) leafy spurge (*Euphorbia esula*);

13 (b) Russian knapweed (*Centaurea repens*); and

14 (c) plants that are designated by rule of the
15 department as prohibited noxious weeds.

16 (17)(18)(17)(18)(17)(18)(17) "Protected variety" means a
17 variety for which a certificate has been issued by the
18 United States plant variety protection office or for which
19 an application for protection has been filed granting the
20 owner or his the owner's authorized agent exclusive rights
21 in the sale and distribution of the variety.

22 (18)(19)(18)(19)(18)(19)(18) "Restricted noxious weed
23 seeds" means the seeds and bulbets of any plant designated
24 as restricted weed seeds under rules adopted by the
25 department. The term includes the seeds of:

1 (a) spotted knapweed (*Centaurea maculosa*); and
 2 (b) dyers woad (*Isatis tinctoria*).
 3 (19)(20)(19)(20)(19)(20)(19) "Screening" means chaff,
 4 sterile florets, immature seed, weed seed, inert matter, and
 5 any other materials removed from seed by any kind of
 6 cleaning or conditioning.
 7 (20)(21)(20)(21)(20)(21)(20) "Seed conditioning plant"
 8 means any place of business that repackages, conditions,
 9 blends, treats, or otherwise manipulates agricultural seeds.
 10 (21)(22)(21)(22)(21)(22)(21) "Seed dealer" means any
 11 person who offers for sale, sells, or barter agricultural
 12 seeds.
 13 (22)(23)(22)(23)(22)(23)(22) "Seed labeler" means any
 14 person affixing labels to agricultural seeds, with his the
 15 person's name and address listed as required in 80-5-102,
 16 when such the seed is distributed in Montana.
 17 (23)(24)(23)(24)(23)(24)(23) "Sell" means to offer for
 18 sale, expose for sale, have in possession for sale,
 19 exchange, barter, or trade. The term includes furnishing
 20 agricultural seed to growers for the production of a crop on
 21 contract.
 22 (24)(25)(24)(25)(24)(25)(24) "Vegetable seeds" means
 23 seeds of those crops that are or may be grown in gardens or
 24 on truck farms and are or may be sold generally under the
 25 name of vegetable seeds.

1 (25)(26)(25)(26)(25)(26)(25) "Weed seeds" means the
 2 seeds or bulbets of all plants generally recognized as weeds
 3 within this state and includes noxious weed seeds."

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

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

11 (2) Each conditioning plant must shall post in a
 12 conspicuous location in the facility:

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

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

- 20 (a) a Montana certified seed grower when labeling
 21 certified seed from his the grower's own production; and
- 22 (b) any person who updates germination test data by
 23 affixing to the package of seed a supplemental label bearing
 24 new germination data, the lot number, and his the person's
 25 name and address.

(4) A person may not sell or distribute seed in Montana without obtaining a seed dealer's license from the department for each place where seed is located, except for:

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

(b) a Montana-certified seed grower when selling certified seed from his own production; and A MONTANA SEED GROWER WHEN SELLING SEED FROM THE GROWER'S OWN PRODUCTION TO A LICENSED SEED DEALER; AND A MONTANA CERTIFIED SEED GROWER WHEN SELLING CERTIFIED SEED FROM HIS OWN PRODUCTION; AND

(c) (C) a grain producer when making bin-run seed SEED SEED SEED sales that are not advertised THAT ARE NOT ADVERTISED BY VARIETAL IDENTIFICATION THAT ARE NOT ADVERTISED BY VARIETAL IDENTIFICATION;

(D) A PERSON WHO AT THE CONCLUSION OF PLANTING, SEEDS LESS THAN 200 BUSHELS OF TREATED SEED; AND

(E) A MONTANA SEED GROWER WHEN SELLING SEED FROM THE GROWER'S OWN PRODUCTION TO A LICENSED SEED DEALER.

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

(6) The department shall set by rule the period for

which a license is issued under this section.

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

(8) Each license shall may cost no more than \$50 ~~\$200~~ \$150 ~~\$200~~ \$150 a year. ~~THE DEPARTMENT SHALL ESTABLISH BY RULE A LOWER LICENSE FEE FOR A SEED DEALER WITH GROSS ANNUAL SALES OF \$5,000 OR LESS. THE DEPARTMENT SHALL ESTABLISH BY RULE A LOWER LICENSE FEE FOR A SEED DEALER WITH GROSS ANNUAL SALES OF \$5,000 OR LESS.~~ The fee must include the cost of application for a license and must be nonrefundable. The department may by rule establish license fees which that bear a reasonable relationship to the cost of administering this part.

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

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

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

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

(10) Seed dealers shall provide with all shipments of seed a bill of lading or other evidence of delivery that

1 includes:

2 (a) the names of:

3 (i) the seller;

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

5 (iii) the buyer; and

6 (iv) the receiver, if other than the buyer; and

7 (b) the destination where the seed will be first
8 unloaded."

9 **Section 3.** Section 80-5-207, MCA, is amended to read:

10 "80-5-207. Violation -- cancellation of license --
11 enforcement proceedings. (1) Distribution of seeds that are
12 not legally labeled or failure to comply with this chapter
13 or rules issued under its authority constitutes sufficient
14 grounds for the department to cancel or deny a license to a
15 licensee, provided that the licensee is given a reasonable
16 opportunity to correct inadvertent and nonrecurring
17 deficiencies.

18 (2) A person who violates or aids in the violation of
19 any provision of this chapter or rules adopted under this
20 chapter is subject to one or both of the following
21 penalties:

22 (a) an administrative civil penalty of not more than
23 \$1,000 for each offense. Assessment of a penalty under this
24 subsection (a) may be made in conjunction with any other
25 warning, order, or administrative action by the department

1 under the authority of this part.

2 (b) Any person convicted of violating the provisions of
3 this part or rules promulgated under the authority of this
4 part is guilty of a misdemeanor and shall be fined
5 punishable by a fine of not less than \$100 or more than \$300
6 for the first violation and not less than \$500 or more than
7 \$1,000 for each subsequent violation.

8 (3) The department shall establish by rule a penalty
9 matrix that schedules the types of penalties, the amounts
10 for initial and subsequent offenses, and any other matters
11 necessary for the administration of civil penalties under
12 subsection (2)(a). The issuance of a civil penalty is
13 subject to the contested case procedures of Title 2, chapter
14 4, part 6.

15 (4) Nothing in this part shall be construed as
16 requiring the department or its representatives to report
17 violations of this part when it believes that the public
18 interest will be best served by a suitable notice of
19 warning.

20 (5) It is the duty of each county attorney to whom
21 any violation is reported to cause appropriate proceedings
22 to be instituted and prosecuted in a court of competent
23 jurisdiction without delay.

24 (6) The department is authorized to apply for and
25 the court to grant a temporary or permanent injunction

1 restraining any person from violating or continuing to
 2 violate any of the provisions of this part or any rule
 3 promulgated under this part notwithstanding the existence of
 4 other remedies at law. An injunction is issued without bond.
 5 (6)(7) Any person adversely affected by an act, order,
 6 or ruling made pursuant to the provisions of this part may
 7 within 30 days bring action in the district court of the
 8 county or any county where the alleged violation occurred
 9 for trial of the issues bearing upon such the act."

10 **Section 4.** Section 80-5-208, MCA, is amended to read:

11 "80-5-208. Deposit of funds -- seed account. All--money
 12 collected--under--the--provisions--of--this--part--shall--be
 13 deposited--to--the--general--fund. (1) There is an account in
 14 the state special revenue fund to be known as the seed
 15 account. All inspection, license, and penalty fee revenue
 16 collected under this chapter must be deposited in the seed
 17 account.

18 (2) Money received as revenue under this chapter not
 19 immediately required for the purposes of this chapter must
 20 be invested under the provisions of the unified investment
 21 program established in Title 17, chapter 6, part 2. All
 22 interest earned on the seed account must be deposited in the
 23 seed account."

24 **NEW SECTION. Section 5.** Effective date. [This act] is
 25 effective July 1, 1993.

1 **NEW SECTION. SECTION 6. TERMINATION. [THIS ACT]**
 2 **TERMINATES JUNE 30, 1995.**

-End-

Free Conference Committee
on Senate Bill No. 98
Report No. 1, April 16, 1993

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 98, met and considered: Senate Bill No. 98.

We recommend that Senate Bill No. 98 (reference copy - salmon) be amended as follows:

1. Title, lines 4 and 5.

Following: "AN ACT" on line 4

Strike: the remainder of line 4 through "SEED;" on line 5

2. Title, line 6.

Strike: "LICENSE PROVISIONS,"

Following: "PENALTIES"

Strike: ", AND FEES"

3. Title, line 8.

Strike: "80-5-120, 80-5-202,"

4. Title, line 9.

Following: "80-5-207"

Strike: ", "

5. Title, line 10.

Strike: "AND A TERMINATION DATE"

6. Page 2, line 10 through page 11, line 8.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

7. Page 14, lines 1 and 2.

Strike: section 6 in its entirety

And that this Free Conference Committee report be adopted.

For the Senate:

Donk "Doc" Gies
Senator Rea, Chair

Ellen Tisdale
Senator Aklestad

Frances Koehnke
Senator Koehnke

M-
Amd. Coord.

Sec. of Senate

ADOPT

REJECT

For the House:

Larry Hal Grinde
Representative Grinde, Chair

Bob Bachini
Representative Bachini

Richard Spring
Representative Spring

SB 98

F.C.C.R.#1

841328CC.Sma

SENATE BILL NO. 98

INTRODUCED BY REA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE LABELING AND SALE OF AGRICULTURAL SEED; REVISING SEED DEALER LICENSE PROVISIONS; PENALTIES; AND FEES; CREATING A SEED ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR DEPOSIT OF SEED FEE REVENUE; AMENDING SECTIONS 80-5-120, 80-5-202, 80-5-207, AND 80-5-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because rulemaking authority is granted in 80-5-202(8) AND IN 80-5-202(8) AND IN 80-5-207 to the department of agriculture to adopt rules regarding administrative civil penalties for violations of the agricultural seed laws AND RULES ESTABLISHING A SEED DEALER'S LICENSE FEE AND RULES ESTABLISHING A SEED DEALER'S LICENSE FEE. It is intended that the department establish a penalty matrix that sets out the kinds of administrative penalties applicable to violations of the agricultural seed laws and delineate the degrees of penalty that may be assessed for initial and subsequent administrative violations. IT IS FURTHER INTENDED THAT THE DEPARTMENT ESTABLISH A TWO-TIERED LICENSE FEE

SCHEDULE UNDER WHICH A LICENSEE WITH GROSS ANNUAL SALES OF \$57,000 OR LESS SHALL PAY A LOWER FEE THAN A LICENSEE WITH GROSS ANNUAL SALES IN EXCESS OF \$57,000. IT IS FURTHER INTENDED THAT THE DEPARTMENT ESTABLISH A TWO-TIERED LICENSE FEE SCHEDULE UNDER WHICH A LICENSEE WITH GROSS ANNUAL SALES OF \$57,000 OR LESS SHALL PAY A LOWER FEE THAN A LICENSEE WITH GROSS ANNUAL SALES IN EXCESS OF \$57,000.

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

Section 1. Section 80-5-120, MCA, is amended to read:--

"80-5-120. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Advertise" means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other electronic media;

(2) "ADVERTISE" means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other electronic media;

(3) "ADVERTISE" means to offer seed or grain for sale by means of newspapers, magazines, pamphlets, signs, or other printed media or by radio, television, or other electronic media;

1 (2)(1)(2)(1)(2)(1)--"Agricultural-seeds"--means-the-seeds
 2 of-grass,-forage,-cereal,-fiber-crops,-and-any-other--kinds
 3 of--seeds--commonly--recognized--within--this--state--as
 4 agricultural--seeds.-The--term--includes--lawn--seeds--and
 5 mixtures-of-seeds:-

6 (2)(3)(2)(3)(2)(3)(2)--"Approximate---percentage"---and
 7 "approximate-number"--mean-the-percentage-or-number-with--the
 8 variations--above--and-below-that-value-as-allowed-according
 9 to-the-tolerance--limits--defined--in--the--rules--for--seed
 10 testing--adopted--by--the--association--of--official--seed
 11 analysts:-

12 (3)(4)(3)(4)(3)(4)(3)--"Bin-run-seed-sales"--means--seed
 13 sales--from-one-farmer-to-another-farmer-with-seeds-sold--"as
 14 is",-without varieta1----identification, VARIBTAB
 15 IDENTIFICATION, VARIBTAB--IDENTIFICATION, guarantyYYY or
 16 analysis:-

17 (4)(5)(4)(5)(4)(5)(4)--"Certifying-agency"--means:-

18 (a)--an-agency-authorized-under-the-laws-of--a--state,
 19 territory,-or-possession-of-the-United-States-to-officially
 20 certify-seed-and-which that has-standards-and-procedures--to
 21 assure--the--genetic--purity--and--identity--of--the--seed
 22 certified;-or

23 (b)--an-agency-of-a-foreign-country--determined--by--the
 24 department--to--adhere--to-procedures-and-standards-for-seed
 25 certification--that--are--comparable--to--those--adhered--to

1 generally-by-the-seed--certifying--agencies--described--in
 2 subsection-(4)(a) (5)(a) (4)(A) (5)(A) (4)(A) (5)(A) (4)(A)-
 3 (5)(6)(5)(6)(5)(6)(5)--"Controlling---the---pollination"
 4 means--to--use--a--method-of-hybridization-that-will-produce
 5 pure-seed-which that is-at-least--75%--hybrid--seed.-Hybrid
 6 designations-must-be-treated-as-variety-names:-

7 (6)(7)(6)(7)(6)(7)(6)--"Flower--seeds"--means--seeds--of
 8 herbaceous---plants---grown--for--their--blooms,-ornamental
 9 foliage,-or-other-ornamental-parts--and--that--are--commonly
 10 known-and-sold-under-the-name-of-flower-seeds-in-this-state:-
 11 (7)(8)(7)(8)(7)(8)(7)--"Hybrid"--as-the-term-applies-to
 12 varieties-of-seed,-means-the--first--generation--seed--of--a
 13 cross--produced--by--controlling--the--pollination--and--by
 14 combining:-

15 (a)--two-or-more-inbred-lines;

16 (b)--one-inbred--or--a--single--cross--with--an--open
 17 pollinated-variety;-or

18 (c)--two-or-more-selected-clones,-seed-lines,-varieties,
 19 or-species:-

20 (8)(9)(8)(9)(8)(9)(8)--"Indigenous---seeds"---means--the
 21 seeds-of-those-plants-that-are-naturally-adapted-to-an--area
 22 where--the--intended--use--is--for--revegetation-of-disturbed
 23 sites.-These-plants--include--grasses,-forbs,-shrubs,-and
 24 legumes:-

25 (9)(10)(9)(10)(9)(10)(9)--"Labeling"---means--to--affix,

1 before-offering-the-seed-for-sale, on-the--exterior--of--the
2 container--in-a-conspicuous-place-a-label-written-or-printed
3 in-the-English-language-that-has-not--been--altered,--giving
4 the-information-required-under-this-chapter.

5 (10)(11)(10)(11)(10)(11)(10)-"Montana--certified--seed
6 grower"--means-a--member--of--an--authorized--Montana--seed
7 certifying--agency--who--has-consented-to-produce-seed-under
8 the-rules-for-certified-classes-of-seed, with-respect-to-the
9 maintenance-of-genetic--purity--and--variety--identity,--set
10 forth-by-the-establishing-agency.

11 (11)(12)(11)(12)(11)(12)(11)-"Name-of-the-state-in-which
12 the--seed--was-grown"--means-any-of-the-several-states-of-the
13 United-States-or-a-foreign-country.

14 (12)(13)(12)(13)(12)(13)(12)-"Other--crop--seeds"--means
15 any-agricultural, vegetable, or-flower-seeds-other-than--the
16 seed-or-the-mixture-of-seeds-under-consideration.

17 (13)(14)(13)(14)(13)(14)(13)-"Percentage-of-germination"
18 means--the--percentage--of-seeds-that-show-normal-sprouts-as
19 evidence-of-vitality-when-the-seeds--are--subjected--to--the
20 proper--moisture--and--temperature--conditions--with--proper
21 aeration--for-the-customary-length-of-time-for-each-specific
22 kind-of-seed, as-specified-in-the--rules--for--seed--testing
23 adopted-by-the-association-of-official-seed-analysts.

24 (14)(15)(14)(15)(14)(15)(14)-"Percentage-----viability"
25 means--the--percentage--of--live-seed-capable-of-producing-a

1 normal-seedling-under-optimum-growing-conditions, after--all
2 forms-of-dormancy-have-been-overcome, if-present.

3 (15)(16)(15)(16)(15)(16)(15)-"Person"-----means-----any
4 individual, firm, partnership, corporation, or-association.

5 (16)(17)(16)(17)(16)(17)(16)-"Prohibited--noxious--weed
6 seeds"--means--the--seeds--of-perennial-plants-that-not-only
7 reproduce-by-seed-but-also-may-spread-by-underground--roots,
8 stems,--and--other--reproductive--parts--and-that, when-well
9 established, are-highly-destructive-and-difficult-to-control
10 in-this-state-by-ordinary-good-cultural-practice. Prohibited
11 noxious-weed-seeds-include-the-seeds-of:

12 (a)--leafy-spurge-(*Euphorbia-esula*);

13 (b)--Russian-knapweed-(*Centaurea-repens*); and

14 (c)--plants--that--are--designated--by--rule--of--the
15 department-as-prohibited-noxious-weeds.

16 (17)(18)(17)(18)(17)(18)(17)-"Protected-variety"--means-a
17 variety--for--which--a--certificate--has--been-issued-by-the
18 United-States-plant-variety-protection-office-or--for--which
19 an--application--for--protection-has-been-filed-granting-the
20 owner-or-his the-owner's authorized-agent--exclusive--rights
21 in-the-sale-and-distribution-of-the-variety.

22 (18)(19)(18)(19)(18)(19)(18)-"Restricted--noxious--weed
23 seeds"--means-the-seeds-and-bulbets-of-any--plant--designated
24 as--restricted--weed--seeds--under--rules--adopted--by--the
25 department. The-term-includes-the-seeds-of:

(a)--spotted-knapweed-(*Centaurea-maculosa*);-and

(b)--dyers-wood-(*Isatis-tinctoria*);-

(19)(20)(19)(20)(19)(20)(19)-"Screening"--means---chaff,
sterile-florets,-immature-seed,-weed-seed,-inert-matter,-and
any--other--materials--removed--from--seed--by--any--kind-of
cleaning-or-conditioning;

(20)(21)(20)(21)(20)(21)(20)-"Seed--conditioning--plant"
means-any-place-of--business--that--repackages,-conditions,
blends,-treats,-or--otherwise-manipulates-agricultural-seeds;

(21)(22)(21)(22)(21)(22)(21)-"Seed---dealer"--means--any
person-who-offers-for-sale,-sells,-or--barter--agricultural
seeds;

(22)(23)(22)(23)(22)(23)(22)-"Seed--labeler"--means--any
person--affixing--labels-to-agricultural-seeds,-with-his the
person's name-and-address-listed-as--required--in--80-5-102,
when-such the seed-is-distributed-in-Montana;

(23)(24)(23)(24)(23)(24)(23)-"Sell"--means--to-offer-for
sale,-expose--for--sale,-have--in--possession--for--sale,
exchange,-barter,-or--trade--The-term-includes-furnishing
agricultural-seed-to-growers-for-the-production-of-a-crop-on
contract;

(24)(25)(24)(25)(24)(25)(24)-"Vegetable---seeds"---means
seeds-of-those-crops-that-are-or-may-be-grown-in-gardens--or
on--truck--farms--and-are-or-may-be-sold-generally-under-the
name-of-vegetable-seeds;

(25)(26)(25)(26)(25)(26)(25)-"Weed--seeds"---means---the
seeds-or-bulbets-of-all-plants-generally-recognized-as-weeds
within-this-state-and-includes-noxious-weed-seeds."

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 the-grower's own--production,-is--not-required-to-be
licensed-under-this-part;

(2)--Each--conditioning--plant--must shall post--in--a
conspicuous-location-in-the-facility;

(a)--its-fees-for-conditioning-services;-and

(b)--the-license-designation-for-the-facility;

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

(a)--a--Montana--certified--seed--grower--when--labeling
certified-seed-from-his the-grower's own-production;-and

(b)--any--person--who--updates--germination-test-data-by
affixing-to-the-package-of-seed-a-supplemental-label-bearing
new-germination-data,-the-lot-number,-and-his the--person's
name-and-address;

1 {4}--A person may not sell or distribute seed in Montana
 2 without obtaining a seed dealer's license from the
 3 department for each place where seed is located, except for:
 4 {a}--a person who distributes seed only in sealed
 5 packages of 10 pounds or less that are properly labeled; and
 6 AND AND
 7 {b}--a Montana certified seed grower when selling
 8 certified seed from his own production; and A MONTANA SEED
 9 GROWER WHEN SELLING SEED FROM THE GROWER'S OWN PRODUCTION TO
 10 A LICENSED SEED DEALER; AND A MONTANA CERTIFIED SEED GROWER
 11 WHEN SELLING CERTIFIED SEED FROM THE GROWER'S OWN
 12 PRODUCTION; AND A MONTANA CERTIFIED SEED GROWER WHEN SELLING
 13 CERTIFIED SEED FROM HIS OWN PRODUCTION; AND
 14 {c}{e}{e}{e}--a grain producer when making bin run seed
 15 SEED SEED SEED sales that are not advertised THAT ARE NOT
 16 ADVERTISED BY VARIETAL IDENTIFICATION THAT ARE NOT
 17 ADVERTISED BY VARIETAL IDENTIFICATION;
 18 {D}--A PERSON WHO AT THE CONCLUSION OF PLANTING, SEEDS
 19 LESS THAN 200 BUSHELS OF TREATED SEED; AND
 20 {B}--A MONTANA SEED GROWER WHEN SELLING SEED FROM THE
 21 GROWER'S OWN PRODUCTION TO A LICENSED SEED DEALER;
 22 {5}--Each person selling seed from a location other than
 23 the licensed place must be listed on the application for
 24 license;
 25 {6}--The department shall set by rule the period for

1 which a license is issued under this section;
 2 {7}--The department may establish by rule minimum
 3 standards for equipment and handling procedures for
 4 facilities to be licensed;
 5 {8}--Each license shall may cost no more than \$50 \$200
 6 \$150 \$200 \$150 a year. THE DEPARTMENT SHALL ESTABLISH BY
 7 RULE A LOWER LICENSE FEE FOR A SEED DEALER WITH GROSS ANNUAL
 8 SALES OF \$5,000 OR LESS; THE DEPARTMENT SHALL ESTABLISH BY
 9 RULE A LOWER LICENSE FEE FOR A SEED DEALER WITH GROSS ANNUAL
 10 SALES OF \$5,000 OR LESS; The fee must include the cost of
 11 application for a license and must be nonrefundable; The
 12 department may by rule establish license fees which that
 13 bear a reasonable relationship to the cost of administering
 14 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. The application must contain among other things:
 18 {a}--the location of each seed conditioning plant if the
 19 application is for a seed conditioning plant license;
 20 {b}--a sample label if the application is for a seed
 21 labeler license; and
 22 {c}--a list of persons selling seed if the application
 23 is for a seed dealer's license;
 24 {10}--Seed dealers shall provide with all shipments of
 25 seed a bill of lading or other evidence of delivery that

1 includes:

2 ~~{a}--the names of;~~
 3 ~~{i}--the seller;~~
 4 ~~{ii}--the shipper, if other than the seller;~~
 5 ~~{iii}--the buyer; and~~
 6 ~~{iv}--the receiver, if other than the buyer; and~~
 7 ~~{b}--the destination where the seed will be first~~
 8 ~~unloaded;"~~

9 **Section 1.** Section 80-5-207, MCA, is amended to read:

10 "80-5-207. Violation -- cancellation of license --
 11 enforcement proceedings. (1) Distribution of seeds that are
 12 not legally labeled or failure to comply with this chapter
 13 or rules issued under its authority constitutes sufficient
 14 grounds for the department to cancel or deny a license to a
 15 licensee, provided that the licensee is given a reasonable
 16 opportunity to correct inadvertent and nonrecurring
 17 deficiencies.

18 (2) A person who violates or aids in the violation of
 19 any provision of this chapter or rules adopted under this
 20 chapter is subject to one or both of the following
 21 penalties:

22 (a) an administrative civil penalty of not more than
 23 \$1,000 for each offense. Assessment of a penalty under this
 24 subsection (a) may be made in conjunction with any other
 25 warning, order, or administrative action by the department

1 under the authority of this part.

2 ~~(b)~~ Any person convicted of violating the provisions of
 3 ~~this part or rules promulgated under the authority of this~~
 4 ~~part is guilty of~~ a misdemeanor and ~~shall be~~ fin-
 5 ishable by a fine of not less than \$100 or more than \$300
 6 for the first violation and not less than \$500 or more than
 7 \$1,000 for each subsequent violation.

8 ~~(3)~~ The department shall establish by rule a penalty
 9 matrix that schedules the types of penalties, the amounts
 10 for initial and subsequent offenses, and any other matters
 11 necessary for the administration of civil penalties under
 12 subsection (2)(a). The issuance of a civil penalty is
 13 subject to the contested case procedures of Title 2, chapter
 14 4, part 6.

15 ~~{3}{4}~~ Nothing in this part shall may be construed as
 16 requiring the department or its representatives to report
 17 violations of this part when it believes that the public
 18 interest will be best served by a suitable notice of
 19 warning.

20 ~~{4}{5}~~ It is the duty of each county attorney to whom
 21 any violation is reported to cause appropriate proceedings
 22 to be instituted and prosecuted in a court of competent
 23 jurisdiction without delay.

24 ~~{5}{6}~~ The department is authorized to apply for and
 25 the court to grant a temporary or permanent injunction

1 restraining any person from violating or continuing to
 2 violate any of the provisions of this part or any rule
 3 promulgated under this part notwithstanding the existence of
 4 other remedies at law. An injunction is issued without bond.
 5 ~~(6)~~(7) Any person adversely affected by an act, order,
 6 or ruling made pursuant to the provisions of this part may
 7 within 30 days bring action in the district court of the
 8 county or any county where the alleged violation occurred
 9 for trial of the issues bearing upon such the act."

10 **Section 2.** Section 80-5-208, MCA, is amended to read:

11 "80-5-208. Deposit of funds -- seed account. ~~All--money~~
 12 ~~collected--under--the--provisions--of--this--part--shall--be~~
 13 ~~deposited--to--the--general--fund.~~ (1) There is an account in
 14 the state special revenue fund to be known as the seed
 15 account. All inspection, license, and penalty fee revenue
 16 collected under this chapter must be deposited in the seed
 17 account.

18 (2) Money received as revenue under this chapter not
 19 immediately required for the purposes of this chapter must
 20 be invested under the provisions of the unified investment
 21 program established in Title 17, chapter 6, part 2. All
 22 interest earned on the seed account must be deposited in the
 23 seed account."

24 **NEW SECTION. Section 3.** Effective date. [This act] is
 25 effective July 1, 1993.

1 ~~NEW-SECTION--SECTION 6--TERMINATION.-----[THIS-----ACT]~~
 2 ~~TERMINATES-JUNE-30-1995-~~

-End-