

House BILL NO. 386

INTRODUCED BY

ROSE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA LIVESTOCK MARKETING ACT; REVISING THE DEFINITION OF A LIVESTOCK DEALER; DEFINING A CUSTODIAL ACCOUNT; DEFINING A SATELLITE VIDEO LIVESTOCK AUCTION MARKET; REQUIRING A SATELLITE VIDEO LIVESTOCK AUCTION MARKET TO BE LICENSED; AND AMENDING SECTION 81-8-213, MCA."

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

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

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

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

(2) "Custodial account for shippers' proceeds" or "custodial account" means a separate account established and maintained by a market agency or a satellite video livestock auction market engaged in selling livestock on a commission or agency basis. The account must be maintained in a Montana bank insured by the federal deposit insurance corporation and used to maintain and disburse all funds due to consignors from livestock sold on a commission basis. All checks or banking instruments to consignors in payment of the net proceeds from the sale of consigned livestock must be issued on the custodial account. This account must disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.

~~(2)~~(3) "Department" means the department of livestock provided for in Title 2, chapter 15, part 31.

~~(3)~~(4) "Immediate resale" means a sale of livestock within 60 days of the purchase of the livestock.

~~(4)~~(5) "Livestock" means cattle, calves, hogs, pigs, horses, mules, sheep, lambs, and goats.

~~(5)~~(6)(a) "Livestock dealer" means a person engaged in the business of purchasing livestock:

(i) for immediate resale or;

(ii) for interstate shipment; or

(iii) on a commission or fee basis;

(A) for the account of others; or

1 (B) for or on behalf of a dealer or a market.

2 (b) The term does not include a farmer or rancher who buys or sells livestock in the ordinary course
3 of a farming or ranching operation.

4 ~~(6)(7)~~ "Livestock market" means a place where a person for compensation assembles livestock for
5 sale, except:

6 (a) a place used solely for a dispersal sale of the livestock of a farmer, ~~dairyman~~ dairy producer,
7 livestock breeder, or feeder who is discontinuing business and at which ~~no~~ other livestock is not sold or
8 offered for sale;

9 (b) a farm, ranch, or place where livestock either raised or kept ~~thereon~~ for the grazing season or
10 for fattening is sold and to which ~~no~~ other livestock is not brought for sale or to be offered for sale;

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

13 (d) the premises of a person engaged in the raising of livestock for breeding purposes only, who
14 limits ~~his~~ sale to livestock of ~~his~~ the person's own production;

15 (e) a place where a breeder or an association of breeders of livestock of any class assembles and
16 offers for sale and sells under ~~his~~ the breeder's or ~~its~~ the association's own management any livestock,
17 when the breeder or association of breeders assumes all responsibility for the sale and the title of livestock
18 sold.

19 ~~(7)(8)~~ "Person" means an individual, firm, association, partnership, or corporation.

20 (9) "Satellite video livestock auction market" or "video auction market" means a place or
21 establishment operated or conducted for compensation or profit as a public market where livestock located
22 in this state are sold or offered for sale at a facility within or outside the state through the use of a satellite
23 video at a public auction.

24 ~~(8)(10)~~ "Test station sale" means the sale of livestock from a place where livestock is taken to
25 measure rates of gain under uniform feeding conditions when that place is not owned by the owner of the
26 livestock."

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28 NEW SECTION. Section 2. Satellite video livestock auction market -- license to transact business
29 -- license fee -- contract -- renewal. (1) A satellite video livestock auction market may transact business
30 in this state only through a licensed livestock dealer who is a resident of the state or through a livestock

1 market that is domiciled in the state.

2 (2) A livestock dealer or a livestock market that proposes to transact business with a video auction
3 market shall file an application for a license with the department on a form prescribed by the department
4 with the following information:

5 (a) the nature of the business for which a license is requested;

6 (b) the name and address of the livestock dealer or the livestock market;

7 (c) the name and address of the video auction market; and

8 (d) any additional information that the department may require.

9 (3) The application must be accompanied by:

10 (a) a fee established by the department commensurate with the costs of administering [section 3]
11 and this section;

12 (b) evidence that the department may require indicating that the video auction market is financially
13 responsible and bonded to transact business and has established a custodial account for shippers'
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15 (c) a copy of the contract between the licensed livestock dealer or the livestock market and the
16 video auction market. The contract must provide:

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19 (ii) that the livestock dealer or the livestock market and the video auction market are jointly and
20 severally liable, with the right of contribution, for all business transacted within the state.

21 (4) If the contract described in subsection (3)(c) is terminated, rescinded, breached, or materially
22 altered, the livestock dealer or the livestock market shall immediately notify the department. Failure to
23 notify the department is considered to be:

24 (a) a failure to keep and maintain suitable records with the department; and

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26 (5) On or before May 1 of each year, a livestock dealer or a livestock market shall renew the license
27 by fulfilling the requirements of subsections (1) through (4).

28 (6) The license fee must be remitted to the state treasurer to the credit of the department.

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30 **NEW SECTION. Section 3. Refusal to issue or renew license -- suspension or revocation.** (1) The

1 department may refuse to issue or renew a license in accordance with the provisions of 81-8-273.

2 (2) The department may suspend or revoke a license in accordance with the provisions of 81-8-274.

3 (3) If the contract between the livestock dealer or the livestock market and the video auction market
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5 refuse to renew the license or may suspend or revoke the license.

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7 **NEW SECTION. Section 4. Codification instruction.** [Sections 2 and 3] are intended to be codified
8 as an integral part of Title 81, chapter 8, part 2, and the provisions of Title 81, chapter 8, part 2, apply to
9 [sections 2 and 3].

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0386, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

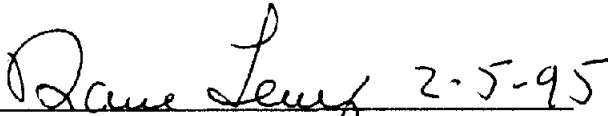
An act generally revising the Montana Livestock Marketing Act; revising the definition of a livestock dealer; defining a custodial account; defining a satellite video livestock auction market; requiring a satellite video livestock auction market to be licensed.

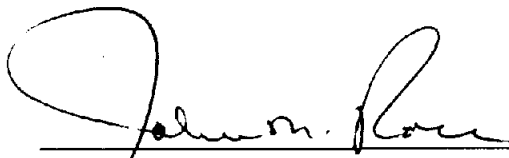
ASSUMPTIONS:

1. The activities addressed by this proposed legislation will be and currently are being monitored by existing staff in the Department of Livestock. Any activities associated with satellite video livestock auctions will be carried out through a licensed livestock dealer in the state. Therefore, there may or may not be additional dealers licensed and, if there are, the number of new licenses will be minimal.

FISCAL IMPACT:

Any fiscal impact to the Department of Livestock will be minimal.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


JOHN "SAM" ROSE, PRIMARY SPONSOR DATE

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HB 386

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10 as an integral part of Title 81, chapter 8, part 2, and the provisions of Title 81, chapter 8, part 2, apply
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