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House BILL NO. 513

INTRODUCED BY DeBroyer

BY REQUEST OF THE NATURAL RESOURCES SUBCOMMITTEE OF APPROPRIATIONS

A BILL FOR AN ACT ENTITLED: "AN ACT EXCEPTING A PERSON WHO BUYS AGRICULTURAL COMMODITIES EXCLUSIVELY FOR THE FEEDING OF LIVESTOCK FROM THE DEFINITION OF COMMODITY DEALER; PROVIDING PENALTIES; AMENDING SECTIONS 80-4-402 AND 80-4-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 80-4-402, MCA, is amended to read:

**"80-4-402. Definitions.** As used in parts 4 through 7 of this chapter, the following definitions apply:

(1) "Agent" means any person who contracts for or solicits any agricultural commodities from a producer or warehouse operator or negotiates the consignment or purchase of any agricultural commodity on behalf of any commodity dealer.

(2) "Agricultural commodity" means any grain, beans, safflower, sunflower seeds, tame mustards, rapeseed, flaxseed, leguminous seed, or other small seed, and other agricultural commodities designated by rule of the department.

(3) "Bond" means the bond required to be filed by part 5 or 6 of this chapter and includes any equivalent established by department rule, as provided in 80-4-504 and 80-4-604.

(4) "Commodity dealer" means any person who engages in a business involving or, as part of the business, participates in buying, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any agricultural commodity in the state of Montana. The term does not include:

(a) a person engaged solely in storing, shipping, or handling agricultural commodities for hire;

(b) a person who buys agricultural commodities from a licensed commodity dealer;

(c) a person who does not purchase more than \$30,000 worth of agricultural commodities from producers during a licensing year; however, once a person exceeds the \$30,000 exemption, the person shall obtain a license and is not eligible for the exemption for the succeeding year;

1 (d) a person who is the producer of agricultural commodities that the person actually plants,  
2 nurtures, and harvests; ~~or~~

3 (e) a person whose trading in agricultural commodities is limited to trading in commodity futures  
4 on a recognized futures exchange; or

5 (f) a person who buys agricultural commodities used exclusively for the feeding of livestock and  
6 not for resale.

7 (5) "Delayed payment contract" means a written contract for the sale of an agricultural commodity  
8 when the sale price is to be paid at a date after delivery of the agricultural commodity to the buyer and  
9 includes but is not limited to those contracts commonly referred to as deferred payment contracts, deferred  
10 pricing contracts, no-price-established contracts, or price-later contracts. A delayed payment contract does  
11 not include those contracts in which the parties intend payment to be made immediately upon determination  
12 of weights and grades.

13 (6) "Department" means the department of agriculture provided for in 2-15-3001.

14 (7) "Depositor" means any person who deposits an agricultural commodity in a warehouse for  
15 storage, processing, handling, or shipment or who is the owner or legal holder of an outstanding warehouse  
16 receipt or who is lawfully entitled to possession of the agricultural commodity.

17 (8) "Director" means the director of the department of agriculture.

18 (9) "Grain" means all grains for which standards have been established under the United States  
19 Grain Standards Act, {7 U.S.C. 71 through 87}, and all other agricultural commodities, such as mustard,  
20 oil seed crops, or other crops which may be designated by rule of the department.

21 (10) "Grain Standards Act" means the United States Grain Standards Act, {7 U.S.C. 71 through 87}.

22 (11) "Inspector" means any person designated by the director to assist in the administration of parts  
23 4 through 6 of this chapter. The term includes warehouse auditors or examiners.

24 (12) "Official grain inspectors" means any official personnel who perform or supervise the  
25 performance of official inspection services and certify the results of inspections, including the grade of the  
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27 (13) "Official grain samplers" or "samplers" means any official personnel who perform or supervise  
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30 the grades defined by the Grain Standards Act.

1 (15) "Official grain weighers" means any official personnel who perform or supervise the  
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4 (16) "Person" means any individual, firm, association, corporation, partnership, or any other form  
5 of business enterprise.

6 (17) "Producer" means the owner, tenant, or operator of land in this state who has an interest in  
7 and receives all or part of the proceeds from the sale of agricultural commodities produced on that land.

8 (18) "Public warehouse" or "warehouse" means any elevator, mill, warehouse, subterminal grain  
9 warehouse, public warehouse, or other structure or facility in which, for compensation, agricultural  
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12 (19) "Purchase contract" means a delayed payment contract or other written contract for the  
13 purchase of agricultural commodities by a commodity dealer.

14 (20) "Receipt" means a warehouse receipt.

15 (21) "Scale weight ticket" means a load slip or other evidence of delivery, other than a receipt,  
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17 initial delivery of the agricultural commodity to the warehouse.

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23 (24) "Terminal grain warehouse" means any warehouse authorized by a grain exchange to receive  
24 or disburse grain on consignment as presented by the rules and regulations of a grain exchange.

25 (25) "Warehouse operator" means a person operating or controlling a public warehouse.

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29 **Section 2.** Section 80-4-429, MCA, is amended to read:

30 **"80-4-429. Penalty.** (1) Except as otherwise provided, any person who violates any provision of

1 parts 4 through 6 of this chapter or rules promulgated under parts 4 through 6 or who impedes, obstructs,  
2 hinders, or otherwise prevents or attempts to prevent the director or an authorized representative in the  
3 performance of a duty under parts 4 through 6 of this chapter is guilty of a misdemeanor and is punishable  
4 by imprisonment in a county jail not to exceed 6 months or by a fine of not more than \$1,000, or both.

5 (2) A person who refuses to permit inspection of licensed premises, books, accounts, records, or  
6 other documents required by parts 4 through 7 of this chapter or who uses a scale weight ticket or  
7 purchase contract that fails to satisfy the requirements of parts 4 through 7 of this chapter is guilty of a  
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9 (3) A person acting as a commodity dealer or warehouse operator who knowingly sells  
10 warehouse-receipted agricultural commodities that the person is not authorized to sell or who fails to pay  
11 for purchased agricultural commodities is guilty of a felony.

12 (4) A person exempted from licensure as a commodity dealer under the provisions of 80-4-402(4)(f)  
13 who fails to pay in full all amounts due to a commodity dealer for the sale of agricultural commodities is  
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16 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

17

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0513, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act excepting persons buying agricultural commodities exclusively for feeding of livestock from the definition of commodity dealer thereby exempting them from the licensing, bonding and auditing requirements of the Agricultural Warehouse, Commodity Dealer and Grain Standards Act.

ASSUMPTIONS:

1. Current emphasis of the Department of Agriculture's commodity dealer/public warehouse program is licensing, bonding, and auditing of grain and seed dealers who purchase and store grain and seed as part of the normal grain and seed trade in Montana.
2. Current personnel is insufficient to meet the requirements of licensing, bonding, and auditing of feedlots with purchases of more than \$30,000 of grain from producers for the purpose of feeding livestock.
3. Owners and operators of feedlots who purchase more than \$30,000 of grain from producers for the purpose of feeding livestock will no longer be required to be licensed, bonded, and subject to auditing under the Agricultural Warehouse, Commodity Dealer and Grain Standards Act (AWCDGS).
4. Forty-five feedlots will no longer be subject to licensing, bonding, and auditing under the AWCDGS Act.
5. This change in the AWCDGS Act will allow the department to statutorily focus its commodity dealer/public warehouse program responsibilities and efforts on the traditional grain and seed trade.

FISCAL IMPACT:

There is no fiscal impact to the Department of Agriculture.

Dave Lewis 2-16-95  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

Roger DeBruycker  
ROGER DEBRUYCKER, PRIMARY SPONSOR DATE

Fiscal Note for HB0513, as introduced

**HB 513**

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INTRODUCED BY

*DeBryner*

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3 performance of a duty under parts 4 through 6 of this chapter is guilty of a misdemeanor and is punishable  
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3 of the grain.

4 (16) "Person" means any individual, firm, association, corporation, partnership, or any other form  
5 of business enterprise.

6 (17) "Producer" means the owner, tenant, or operator of land in this state who has an interest in  
7 and receives all or part of the proceeds from the sale of agricultural commodities produced on that land.

8 (18) "Public warehouse" or "warehouse" means any elevator, mill, warehouse, subterminal grain  
9 warehouse, public warehouse, or other structure or facility in which, for compensation, agricultural  
10 commodities are received for storage, handling, processing, or shipment. The term includes facilities which  
11 commingle commodities belonging to different lots of agricultural commodities.

12 (19) "Purchase contract" means a delayed payment contract or other written contract for the  
13 purchase of agricultural commodities by a commodity dealer.

14 (20) "Receipt" means a warehouse receipt.

15 (21) "Scale weight ticket" means a load slip or other evidence of delivery, other than a receipt,  
16 given to a depositor by a warehouse operator licensed under the provisions of part 5 of this chapter upon  
17 initial delivery of the agricultural commodity to the warehouse.

18 (22) "Station" means a warehouse located more than 3 miles from the central office of the  
19 warehouse.

20 (23) "Subterminal warehouse" means any warehouse at which an intermediate function is  
21 performed in which agricultural commodities are customarily received from dealers or producers and where  
22 the commodities are accumulated prior to shipment.

23 (24) "Terminal grain warehouse" means any warehouse authorized by a grain exchange to receive  
24 or disburse grain on consignment as presented by the rules and regulations of a grain exchange.

25 (25) "Warehouse operator" means a person operating or controlling a public warehouse.

26 (26) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued under  
27 part 5 of this chapter by a warehouse operator, except scale weight tickets."

28  
29 **Section 2.** Section 80-4-429, MCA, is amended to read:

30 **"80-4-429. Penalty.** (1) Except as otherwise provided, any person who violates any provision of



1 parts 4 through 6 of this chapter or rules promulgated under parts 4 through 6 or who impedes, obstructs,  
2 hinders, or otherwise prevents or attempts to prevent the director or an authorized representative in the  
3 performance of a duty under parts 4 through 6 of this chapter is guilty of a misdemeanor and is punishable  
4 by imprisonment in a county jail not to exceed 6 months or by a fine of not more than \$1,000, or both.

5 (2) A person who refuses to permit inspection of licensed premises, books, accounts, records, or  
6 other documents required by parts 4 through 7 of this chapter or who uses a scale weight ticket or  
7 purchase contract that fails to satisfy the requirements of parts 4 through 7 of this chapter is guilty of a  
8 misdemeanor.

9 (3) A person acting as a commodity dealer or warehouse operator who knowingly sells  
10 warehouse-receipted agricultural commodities that the person is not authorized to sell or who fails to pay  
11 for purchased agricultural commodities is guilty of a felony.

12 (4) A person exempted from licensure as a commodity dealer under the provisions of 80-4-402(4)(f)  
13 who fails to pay in full all amounts due to a commodity dealer for the sale of agricultural commodities is  
14 guilty of a felony and is also subject to any additional administrative penalty authorized by this chapter."

15

16 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

17

-END-