

Senate BILL NO. 281

INTRODUCED BY *Nancy Bantley* *Bookout* *DeBreyer* *Whitman* *Gerguson*

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THAT THE FINANCIAL STATEMENT SUBMITTED BY AN APPLICANT FOR A LICENSE OR LICENSE RENEWAL AS AN AGRICULTURAL COMMODITY WAREHOUSE OPERATOR OR BY AN APPLICANT FOR A LICENSE OR LICENSE RENEWAL AS AN AGRICULTURAL COMMODITY DEALER BE PREPARED BY A LICENSED ACCOUNTANT OR ANOTHER COMPARABLE PROFESSIONAL; REQUIRING THE DEPARTMENT OF AGRICULTURE TO ADOPT A FEE SCHEDULE BASED ON WAREHOUSE CAPACITY FOR LICENSES FOR AGRICULTURAL COMMODITY WAREHOUSE OPERATORS; REQUIRING THE DEPARTMENT OF AGRICULTURE TO ADOPT A FEE SCHEDULE BASED ON THE VOLUME OF COMMODITY PURCHASES FOR LICENSES FOR AGRICULTURAL COMMODITY DEALERS; AND AMENDING SECTIONS 80-4-502, 80-4-503, 80-4-601, AND 80-4-602, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of agriculture is required in [sections 2 and 4] to adopt, respectively, a fee schedule for licensing agricultural commodity warehouse operators and a fee schedule for licensing agricultural commodity dealers. It is the intent of the legislature:

- (1) that the fee schedule for licensing agricultural commodity warehouse operators be based on the capacity of the warehouse being operated; and
- (2) that the fee schedule for licensing agricultural commodity dealers be based on the volume of commodities purchased by the dealer.

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

Section 1. Section 80-4-502, MCA, is amended to read:

"80-4-502. Licenses to warehouse operator -- issuance -- renewal -- conditions precedent. (1) The department is authorized to issue or renew, upon application, a license to any warehouse operator for the conduct of a warehouse or warehouses in accordance with parts 5 and 6 of this chapter, provided the following conditions are met:

1 (a) Each applicant shall file and maintain satisfactory evidence of an effective policy of insurance
2 issued by an insurance company authorized to do business in this state, insuring all agricultural commodities
3 that are stored in the warehouse, including agricultural commodities owned by the warehouse operator. The
4 insurance ~~shall~~ must insure the commodities for the full market value at the time of loss of ~~such~~ the
5 commodities against loss by fire, internal explosion, lightning, or tornado.

6 (b) Each warehouse must be found suitable for the proper storage of the particular agricultural
7 commodity stored ~~therein~~ in the warehouse.

8 (c) A license fee must be submitted to the department as prescribed by 80-4-503.

9 (d) A current drawing of the warehouse, showing storage facilities and capacity of the warehouse,
10 must be submitted to the department.

11 (e) A sufficient and valid bond must be filed and maintained as required by 80-4-504 and 80-4-505.

12 (f) The applicant has submitted to the department a current financial statement prepared by a
13 licensed accountant or a comparable professional according to generally accepted accounting principles,
14 showing that the applicant has and does maintain current assets equal to or greater than current liabilities.
15 Applicants not having adequate current assets equal to or greater than current liabilities may provide the
16 department with additional bonding, or an equivalent in the form of a certificate of deposit or irrevocable
17 letter of credit, in the amount of \$2,000 for each \$1,000 of deficit. The bond or equivalent must be in
18 addition to the bond amount required in 80-4-505.

19 (g) The applicant ~~must~~ shall submit a sample warehouse receipt and subsequent revisions to the
20 department for approval and filing.

21 (h) The applicant ~~must~~ shall have complied with the terms of this part and the rules prescribed
22 ~~thereunder~~ under this part.

23 (2) All documents required for renewal of a license must be received by the department ~~prior to~~
24 before the expiration date of the warehouse license. An expired warehouse license may be reinstated by
25 the department upon receipt of all required licensing documents and a penalty fee of \$50 if the documents
26 are filed within 30 days from the date of expiration of the warehouse license. All license applications
27 received after the 30-day penalty period must be considered original applications and an initial license fee
28 must be assessed according to 80-4-503."

29
30 **Section 2.** Section 80-4-503, MCA, is amended to read:

1 **"80-4-503. Fees of department.** (1) The department shall collect an annual warehouse operator
 2 license fee ~~of \$232~~ for each warehouse owned or operated by the warehouse operator. The department
 3 shall adopt by rule a fee schedule that is based on warehouse capacity. The schedule may not be revised
 4 after July 1, 1998, without approval by the legislature.

5 (2) ~~If, after evaluation of the commodity dealer/public warehouse operator program, the department~~
 6 ~~determines that revenue from license fees is inadequate to accomplish the purposes of this chapter, the~~
 7 ~~department may by rule increase the license fees, but the~~ A fee established pursuant to subsection (1) may
 8 not exceed \$500 for a facility.

9 (3) The department shall collect a fee of \$150 a day or fraction of a day for maintaining an
 10 employee of the department at a warehouse to supervise the correction of a deficiency.

11 (4) All license fees collected under subsection (1) and deficiency fees collected under subsection
 12 (3) must be deposited into the commodity dealer/public warehouse operators account."

13
 14 **Section 3.** Section 80-4-601, MCA, is amended to read:

15 **"80-4-601. Commodity dealer license requirements -- financial responsibility.** (1) A person may
 16 not engage in the business of a commodity dealer in this state without first having obtained a license issued
 17 by the department.

18 (2) An application for a license to engage in business as a commodity dealer must be filed with the
 19 department and must be on a form prescribed by the department.

20 (3) A license application must include the following:

21 (a) the name of the applicant;

22 (b) the names of the officers and directors if the applicant is a corporation;

23 (c) the names of the partners if the applicant is a partnership;

24 (d) the location of the principal places of business;

25 (e) a sufficient and valid bond as specified in 80-4-604;

26 (f) the number and description of trucks or tractor-trailer units owned or leased by the applicant
 27 that will be used in the transportation of agricultural commodities purchased pursuant to the provisions of
 28 this part;

29 (g) a complete financial statement prepared by a licensed accountant or comparable professional
 30 according to generally accepted accounting principles, setting forth the applicant's assets, liabilities, and

1 net worth. The commodity dealer ~~shall~~ must have and maintain current assets equal to or greater than
 2 current liabilities. Applicants not having adequate current assets equal to or greater than current liabilities
 3 may provide the department with additional bonding, or an equivalent in the form of a certificate of deposit
 4 or irrevocable letter of credit, in the amount of \$2,000 for each \$1,000 of deficit. The bond or equivalent
 5 must be in addition to the bond amount required in 80-4-604.

6 (h) any other reasonable information the department finds necessary to carry out the provisions
 7 and purpose of this part.

8 (4) In order to receive and retain a commodity dealer's license, a commodity dealer ~~shall~~ must have
 9 and maintain net assets of at least \$50,000 or maintain a bond in the amount of \$2,000 for each \$1,000
 10 or fraction ~~thereof~~ of \$1,000 of net assets deficiency. However, a minimum of \$10,000 net assets is
 11 required by a commodity dealer to qualify for a license. Assets must be shown at original cost less
 12 depreciation, except that upon written request filed with the department, the director may allow asset
 13 valuations in accordance with a competent appraisal. In determining total net assets, credit may be given
 14 for insurable property, such as buildings, machinery, equipment, and merchandise inventory, only to the
 15 extent that ~~such~~ the property is protected by insurance against loss or damage by fire. The insurance must
 16 be in the form of lawful policies issued by one or more insurance companies authorized to do business and
 17 subject to service of process in suits brought in this state. A bond submitted for purposes of this subsection
 18 is in addition to any bond otherwise required under this part.

19 (5) The department shall adopt rules relating to the form and time of filing of financial statements.
 20 The department may require additional information or verification regarding the financial resources of the
 21 applicant and the applicant's ability to pay producers for agricultural commodities purchased from them."
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23 **Section 4.** Section 80-4-602, MCA, is amended to read:

24 "**80-4-602. License fees.** (1) (a) Except as provided in subsection (3), the department shall collect
 25 an annual fee ~~of \$232~~ for each commodity dealer license.

26 (b) The department shall adopt by rule a schedule of fees based on the volume of commodities
 27 purchased. The fee schedule may not be revised after July 1, 1998, without approval from the legislature.

28 (c) The annual fee for a commodity dealer's license must be determined from the fee schedule and
 29 must be based on:

30 (i) for a dealer renewing a license, the volume of commodities purchased by the dealer in the

1 previous license year; or

2 (ii) for a dealer applying for a new license, the volume of commodities expected to be purchased
3 during the license year.

4 ~~(2) If, after evaluation of the commodity dealer/public warehouse operator program, the department~~
5 ~~determines that revenue from license fees is inadequate to accomplish the purposes of this chapter, the~~
6 ~~department may by rule increase the license fees, but the A fee established pursuant to subsection (1) may~~
7 not exceed \$500 for a facility.

8 (3) The license fee for a commodity dealer who is licensed as a seed dealer under 80-5-202(4) is
9 \$100 a year if the majority of the dealer's annual expenditures for agricultural commodities is for
10 agricultural seed intended for resale as agricultural seed.

11 (4) All fees collected under this section must be placed in the commodity dealer/public warehouse
12 operators account."

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0281, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing that the financial statement submitted by an applicant for a license or license renewal as an agricultural commodity warehouse operator or by an applicant for a license of license renewal as an agricultural commodity dealer would be prepared by a licensed accountant or another comparable professional; requiring the Department of Agriculture to adopt a fee schedule based on warehouse capacity for licenses for agricultural commodity warehouse operators; requiring the Department of Agriculture to adopt a fee schedule based on the volume of commodity purchases for licenses for agricultural commodity dealers.

ASSUMPTIONS:

1. Rules would be implemented revising licensing fees for warehouses based upon warehouse storage capacity and for commodity dealers based upon volume of commodities purchased the previous year.
2. Two pages of rules would be amended in FY98 at \$70 per page for proposed rule notification and adoption of the final rules in compliance with the Administrative Procedures Act.
3. There would be minimal additional operating expenses, for example, supplies, communication and travel to ensure that agricultural commodity businesses, associations and the public are informed of the proposed rules prior to a hearing(s).
4. The department would adopt a graduated fee schedule for commodity warehouses and dealers. Revenues would be consistent to current level revenues.

FISCAL IMPACT:

Agricultural Sciences Division:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Contracted Services	140	0
Supplies and Materials	50	0
Communications	160	0
Travel	<u>120</u>	<u>0</u>
Total	470	0
 <u>Funding:</u>		
Comm Dealer/Pub Ware Oper Acct (02)	470	0

TECHNICAL NOTES:

The effective date of this bill would be October 1, 1997. The relicensing date for warehouses and dealers is July 1 each year. It would be more efficient to have the effective date of the bill as July 1, 1997.

Dave Lewis 2-10-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Barry Stang 2/11/97
 BARRY STANG, PRIMARY SPONSOR DATE
 Fiscal Note for SB0281, as introduced