

1 HOUSE BILL NO. 478

2 INTRODUCED BY M. ROSENDALE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NOTIFICATION AND WRITTEN PERMISSION
5 BEFORE THE DEPARTMENT OF AGRICULTURE MAY ENTER PRIVATE PROPERTY TO INSPECT AN
6 APIARY SITE; PROVIDING FOR NOTIFICATION, WRITTEN PERMISSION, AND DUE PROCESS BEFORE
7 THE DEPARTMENT OF AGRICULTURE MAY SEIZE, SELL, OR BURN AN APIARY SITE OR EQUIPMENT;
8 EXTENDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 80-6-102, 80-6-104, AND 80-6-201,
9 MCA."

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

12
13 **Section 1.** Section 80-6-102, MCA, is amended to read:
14 **"80-6-102. Registration classes -- reregistration -- fees.** (1) Except as provided in 80-6-114, a person
15 who owns or possesses an apiary in the state shall, before April 1 each year, reregister the apiary site. A person
16 who owns or possesses any bees, hives, colonies, or beekeeping equipment in this state or who owns or
17 possesses an apiary in this state and who fails or refuses to register or reregister as provided in this part is
18 subject to a civil penalty as set forth in 80-6-303.
19 (2) (a) Before a certificate of registration may be issued for an apiary site, the owner or applicant for a
20 certificate shall pay a reregistration fee to the department.
21 (b) The annual fee for reregistering an apiary site may not be less than \$10 or more than \$50. The
22 department may adjust the fee by rule to maintain adequate funding for this part.
23 (c) If, after reregistration, additional or new apiary sites are authorized for a registered apiary, fees must
24 be paid by the registrant in accordance with subsection (2)(b).
25 (d) A site reregistration not applied for by April 1 of each year is a delinquent reregistration and is subject
26 to a penalty fee of 10% of the regular reregistration fee or \$10, whichever is greater.
27 (3) (a) A registrant who fails to apply for reregistration by April 1 of each year must be notified of the
28 delinquency by the department. Notification must be by certified mail, addressed to the registrant at the
29 registrant's most recent address listed in the department's apiary registration files, and is considered sufficient
30 when deposited in a United States post office box or mail box on or before April 21.

1 (b) If a delinquent reregistration is not reregistered by June 1, the registration is forfeited and all rights
2 under the registration are terminated. After June 1, apiary sites that have not been reregistered may be deleted
3 from the registration database.

4 (4) There are four classes of apiary site registration. The conditions under which the department may
5 issue certificates of registration for each class are specified in 80-6-111 through 80-6-114.

6 (5) Registration application blanks must be furnished by the department. The applicant shall provide the
7 following information:

8 (a) a statement of the applicant's name, telephone number, home address, and mailing address;

9 (b) the location of the apiary site, specifically the nearest quarter section, section, township, and range
10 or the GPS coordinates of the site;

11 (c) the name, home address, and mailing address of the current owner, renter, or occupant of the land
12 on which the apiary site is located;

13 (d) when the application is for a new apiary site being registered for the first time, ~~the application must~~
14 ~~also show~~ proof that the owner, renter, or occupant of the land has consented in writing to the apiary being
15 located on that land;

16 (e) the class of apiary site registration for which application is being made; and

17 (f) other information that the department may require ~~under rules adopted by it~~ by rule for the protection,
18 safety, and welfare of the public and the beekeeping industry.

19 (6) Upon receipt of the application and payment of the fees prescribed, the department may issue
20 certificates of registration for the apiary sites, setting forth the name and address of the owner, the specific
21 locations, and the class of apiary sites authorized by the registration.

22 (7) In issuing certificates of registration for apiary sites, if there is a conflict between applicants with
23 respect to location, the department shall give preference to the applicant having the oldest continuously registered
24 apiary site.

25 (8) Suitable evidence of registration must be posted by the apiary registrant in a conspicuous place at
26 or near the apiary site. If an owner has more than one apiary site, suitable evidence of registration must be posted
27 at each apiary site. If the identity of hives cannot be determined, the apiary site may be quarantined by the
28 department and, subject to the provisions of 80-6-104(5) through (7), all hives may be removed, destroyed, sold
29 at public auction, or handled in another appropriate manner at the discretion of the department.

30 (9) A reregistration may not be granted pursuant to this section if a civil penalty due under 80-6-303 has

1 not been paid."

2

3 **Section 2.** Section 80-6-104, MCA, is amended to read:

4 **"80-6-104. Apiaries -- termination of rights -- abandonment.** (1) Except for a hobbyist apiary site, the
5 registration of an apiary site that is not stocked with at least 10 working hives for 10 consecutive days between
6 April 1 and October 1 of each year is considered forfeited. Exceptions may be granted by the department if sites
7 cannot be used because of a natural disaster or other circumstances. When an exception is granted, movement
8 of hives must be to other registered apiary sites.

9 (2) ~~If an~~ An apiary site may be considered abandoned and, subject to the provisions of subsections (5)
10 through (7), the bees and equipment at the site may be seized by the department if:

11 (a) the apiary site is not regularly attended in accordance with good beekeeping practice and that lack
12 of attendance ~~comprises~~ is a hazard or threat to disease or pest control in the beekeeping industry; ~~if,~~

13 (b) by reason of its the apiary site's physical condition or construction ~~an~~ the apiary site cannot be
14 inspected; ~~;~~ or

15 (c) ~~if an~~ the apiary site is not registered in accordance with 80-6-102; ~~the apiary site may be considered~~
16 ~~abandoned and the bees and equipment at the site may be seized by the department.~~

17 (3) ~~Any~~ Subject to the provisions of subsections (5) through (7), any pest-infected equipment, diseased
18 equipment, or equipment that by reason of its physical condition or construction cannot be inspected may be
19 burned.

20 (4) ~~Abandoned~~ Subject to the provisions of subsections (5) through (7), abandoned equipment and bees
21 may be sold by the department at public auction. Proceeds, after the cost of the sale is deducted, may be
22 returned to the former owner or the former owner's estate, if the owner is known, or placed in the apiary account
23 in 80-6-315 if the owner cannot be determined.

24 (5) (a) ~~Before~~ At least 5 days before seizing, burning, or selling any equipment, the department shall,
25 give by certified mail or personal service, notify:

26 (i) ~~the owner or person in charge of the apiary site a written notice at least 5 days before the burning or~~
27 ~~sale. The notice must be by certified mail or personal service upon the owner or person in charge of the apiary~~
28 ~~site. If the owner or person in charge of the apiary site cannot be located, a certified letter sent to the owner's~~
29 ~~most recent address registered with the department is sufficient notice under this section. At least 5 days before~~
30 ~~the burning or sale, a legal notice must also be published in a newspaper in the county where the equipment was~~

1 ~~found; and~~

2 ~~(ii) the owner of the land on which the apiary site is located.~~

3 ~~(b) The department shall also publish notice of the intent to seize, sell, or burn an apiary site or~~
 4 ~~equipment in a newspaper in the county where the apiary site is located or the equipment was found.~~

5 ~~(6) Before seizing, selling, or burning any an apiary site or equipment pursuant to ~~subsection (3) this~~~~
 6 ~~section, the department shall notify obtain written permission from the owner of the land on which the apiary site~~
 7 ~~is located.~~

8 ~~(7) (a) If the landowner objects to the seizing, selling, or burning of the apiary site or equipment by the~~
 9 ~~department or refuses to provide written permission, the landowner or the department may, within 5 days after~~
 10 ~~the notice is given or the landowner's refusal, file a request for a hearing in court.~~

11 ~~(b) If the landowner or the department has filed a request for a hearing pursuant to subsection (7)(a),~~
 12 ~~the department may not take any action until after the hearing and as authorized by the court."~~

13

14 **Section 3.** Section 80-6-201, MCA, is amended to read:

15 **"80-6-201. Apiaries -- powers and duties of department.** (1) To prevent the spread of pests and
 16 contagious and infectious disease among bees and apiaries, the department may:

17 (a) enter private land containing an apiary site and fly over or enter any farm, railroad right-of-way, or
 18 other grounds or premises containing an apiary site to determine the health or ownership of the bees. The
 19 department shall ~~provide at least 24 hours' notice to a~~ obtain written permission from the private landowner or
 20 landowner's representative before entering private land. If the landowner refuses to provide written permission,
 21 the department may seek a court order to enter the property.

22 (b) order the transfer of colonies of bees from hives or containers that cannot be properly examined for
 23 brood or other diseases to other hives or containers;

24 (c) order disinfection of any bees, hives, brood comb, or any other equipment that is infected or
 25 contaminated with disease or pests and, subject to the provisions of 80-6-104(5) through (7), burn the infected
 26 or contaminated bees, hives, brood comb, or any other equipment if, in ~~its~~ the department's judgment, disinfection
 27 will not remove the infection or contamination; ~~Before burning any property, the department shall give the person~~
 28 ~~to whom the apiary site is registered or the owner of an unregistered hobbyist apiary site a written notice at least~~
 29 ~~5 days before the date the property will be burned. The notice must be given by certified mail or personal service.~~
 30 ~~Before burning any equipment, the department shall notify the owner of the land on which the apiary site is~~

1 located:

2 (d) quarantine any apiary site where pests, foulbrood, or any other contagious or infectious diseases are
3 present with the following conditions:

4 (i) During the quarantine, the department shall prevent the removal from the apiary site of any bees or
5 equipment except under a special permit issued by the department permitting the removal under conditions
6 prescribed by the department.

7 (ii) A person may not sell or offer for sale any apiary site, bees, or equipment under quarantine unless
8 a permit authorizing the sale or removal is issued by the department.

9 (iii) Written notice of quarantine must be posted by the department, owner, or person in charge at the
10 quarantined apiary site at a conspicuous place, and a copy must be personally served or sent by certified mail
11 to the owner of the apiary site at the owner's last-known address or to the person in charge. The quarantine
12 continues in effect until it is ordered removed and a copy of the removal order is served in ~~the same manner~~
13 person or by certified mail.

14 (iv) The owner or person in charge of the quarantined apiary site may enter the premises for standard
15 care and maintenance of the bees.

16 (e) establish by rule interior and exterior quarantines to prevent the entry or spread of diseases or pests
17 that are not known to occur in Montana;

18 (f) inspect apiaries, hives, equipment, or premises for the presence of disease or pests;

19 (g) inspect any apiary site at the request of and at the expense of any interested party;

20 (h) promulgate and enforce rules adopted pursuant to parts 1 through 3 of this chapter.

21 (2) A person failing to comply with a rule, order, or provision of a quarantine pursuant to this section is
22 subject to the penalties provided for in 80-6-303.

23 (3) The department may provide disease and pest inspection, sampling, and laboratory analysis services
24 for a fee. The department shall adopt rules setting the fee commensurate with costs and establishing procedures
25 for sampling and analysis.

26 (4) The department may enter into agreements with the United States department of agriculture, other
27 federal agencies, other states, municipal authorities, and individual Montana beekeepers in carrying out the
28 provisions of this part."

29 - END -