

HOUSE BILL NO. 62
INTRODUCED BY L. LEHMAN
BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE APIARY LAWS BY PROVIDING FOR A STATE SPECIAL REVENUE ACCOUNT AND FUNDING SOURCE; FURTHER DEFINING THE TERM "APIARY"; EXPANDING THE DEFINITION OF "PEST"; ESTABLISHING MAXIMUM AND MINIMUM REGISTRATION AND INSPECTION FEES AND ALLOWING THE DEPARTMENT OF AGRICULTURE TO REVISE THESE FEES BY RULE; PROVIDING FOR THE DISPOSITION OF FUNDS RECEIVED AS THE RESULT OF A PENALTY; AMENDING SECTIONS 80-6-101, 80-6-105, 80-6-202, AND 80-6-303, MCA; REPEALING SECTION 80-6-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. State special revenue account -- source of funds. (1) There is an apiary account in the state special revenue fund established in 17-2-102. All funds received by the department under parts 1 through 3 must be deposited in the apiary account.

(2) The department may direct the board of investments to invest the funds collected under subsection (1), pursuant to the provisions of 17-6-201. The interest and income from the investments must be credited to the account provided for in subsection (1).

Section 2. Section 80-6-101, MCA, is amended to read:

"80-6-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Apiary" means a ~~place~~ location where one or more colonies of bees are kept or one or more hives containing honeycombs or bee combs are kept.

(2) "Bee diseases" means a disease or abnormal condition of egg, larval, pupal, or adult stages of bees. Specific bee diseases that are subject to regulation under parts 1 through 3 of this chapter must be designated by department rule.

(3) "Bees" means any stage of the bees in the genus Apis.

(4) "Colony" means the hive and all equipment used in connection with the hive.

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

(6) "Equipment" means hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives and includes containers of honey and wax used in an apiary or in transporting bees and their products and apiary supplies.

(7) "Family unit" means two or more persons living together or residing in the same dwelling, house, or other place of residence.

(8) "General apiary" means an apiary other than a pollination apiary, landowner apiary, or hobbyist apiary.

(9) "Hive" means a frame hive, box hive, box, barrel, log gum, skep, or other receptacle or container or a part of a container, natural or artificial, used as a domicile for bees.

(10) "Hobbyist apiary" means an apiary owned by a hobbyist beekeeper.

(11) "Hobbyist beekeeper" means a person who owns a total of no more than five hives.

(12) "Landowner" means the person who has the use and exclusive possession of the land upon which a landowner apiary is to be registered. However, a person leasing or renting land for the primary purpose of locating or establishing an apiary is not considered a landowner.

(13) "Landowner apiary" means an apiary owned by a landowner as defined in this section.

(14) "Persons" means individuals, associations, partnerships, or corporations.

(15) "Pest" means:

(a) the African honeybee (*Apis mellifera scutellata*) and those honeybees Africanized by interbreeding with the African honeybee;

(b) the imported fire ant (*Solenopsis invicta*, *Solenopsis richteri*, *Solenopsis saevissima richteri*);

(c) the small hive beetle (*Aethina tumida*);

(d) the varroa mite (*Varroa jacobsoni*); and

(e) other pests as identified by rule of the department.

(16) "Pollination apiary" means an apiary operated for pollination of a commercial seed, fruit, or other commercial agricultural product as provided in 80-6-112."

Section 3. Section 80-6-105, MCA, is amended to read:

"80-6-105. Registration fees. (1) Each year before a certificate of registration may be issued for an apiary, the owner or applicant for the certificate shall pay the department a registration fee. Except as provided in this subsection, the fee is \$11. The department may adjust the fee by rule to maintain adequate funding for

~~this part. The fee may not be less than \$8 an apiary or more than \$20 an apiary. in accordance with the following schedule of fees for the total number of colonies owned or possessed:~~

1 to 10 colonies of bees	-\$ 20
11 to 200 colonies	-50
201 to 500 colonies	-80
501 to 1,000 colonies	-140
1,001 to 3,000 colonies	-200
3,001 to 5,000 colonies	-280
5,001 colonies and upward	-400

~~(2) If, after registration, additional or new colonies apiary locations are authorized for a registered apiary, fees must be paid by the registrant in accordance with the schedule in subsection (1) for the total number of colonies for that year."~~

Section 4. Section 80-6-202, MCA, is amended to read:

"80-6-202. Inspection of bees or used beekeeping equipment transported interstate. (1) A person may not transport or bring into the state bees or used beekeeping equipment or containers, including honey to be extracted, unless under a compliance agreement or certified and duly marked as being apparently pest- and disease-free by an official responsible for apiary regulations of the state from which they are being moved. The department must be advised in advance of the date of entry and the destination of the bees or material. Used equipment or bees transported into the state may be quarantined by the department, in accordance with 80-6-201(1)(c), from the time they enter the state until they have been inspected and found to be apparently free of pests and diseases or until they have been in use while under quarantine for a minimum of 90 days and at least until the following July 1. The beekeeping materials are also subject to quarantine as provided in this section. The department may also inspect and certify as being apparently pest- and disease-free bees or beekeeping equipment to be transported from Montana to a state that requires an inspection in the state of origin.

(2) (a) The costs of making the inspections provided for in subsection (1) must be paid in advance by the owner of the bees or equipment.

(b) Inspection fees for persons without a valid Montana compliance agreement must include:

- (i) per diem pursuant to Title 2, chapter 18, part 5;
- (ii) necessary traveling expenses;
- (iii) an hourly rate established by department rule; and

(iv) except as provided in this subsection (2)(b)(iv), a fee of \$50 \$75 for the issuance of a certificate of health. The department may adjust the fee by rule to maintain adequate funding for this part. The fee may not be less than \$50 or more than \$100.

(c) Persons transporting bees interstate with a valid Montana compliance agreement shall pay inspection fees that include:

(i) per diem pursuant to Title 2, chapter 18, part 5;

(ii) necessary traveling expenses; and

(iii) except as provided in this subsection (2)(c)(iii), a fee of \$50 \$75 for the issuance of a certificate of health. The department may adjust the fee by rule to maintain adequate funding for this part. The fee may not be less than \$50 or more than \$100.

(d) If inspection by an official of any other state is considered insufficient for the protection of the Montana bee industry by the department, the department shall so state by public statement. Importation of bees or beekeeping materials, including honey for extracting, from that other state must be denied unless the materials, bees, or honey is first inspected by the department and there is obtained from it a certificate of inspection showing that the materials, bees, or honey is apparently free from pests and contagious or infectious disease. The costs of making the inspection must be paid by the person requesting it, and inspection may be made at any point outside this state convenient to the person making the inspection. The department may require that the costs of making the inspection be paid in advance, and the costs must include:

(i) per diem pursuant to Title 2, chapter 18, part 5;

(ii) necessary traveling expenses;

(iii) an hourly rate established by department rule; and

(iv) except as provided in this subsection (2)(d)(iv), a fee of \$50 \$75 for the issuance of the certificate of inspection. The department may adjust the fee by rule to maintain adequate funding for this part. The fee may not be less than \$50 or more than \$100."

Section 5. Section 80-6-303, MCA, is amended to read:

"80-6-303. Penalty. (1) A person violating or aiding in the violation of parts 1 through 3 or rules adopted under parts 1 through 3 is subject to one or both of the following penalties:

(a) an administrative civil penalty of not more than \$1,000 for each offense. Assessment of a penalty under this subsection ~~(a)~~ (1)(a) may be made in conjunction with any other warning, order, or administrative action that is issued by the department under this part. The proceeds of an administrative civil penalty must be

deposited in the ~~general fund~~ state special revenue account provided for in [section 1].

(b) if the offense is a misdemeanor, a fine of not less than \$25 or more than \$500 or imprisonment in the county jail not exceeding 1 year, or both.

(2) The department shall establish by rule a penalty matrix that schedules the types of penalties, the amounts of penalties for initial and subsequent offenses, and any other matters necessary for the administration of civil penalties under subsection (1)(a). The issuance of a civil penalty is subject to the contested case procedures of Title 2, chapter 4, part 6.

(3) This part may not be construed as requiring the department or its representatives to report violations of this part when it is believed that the public interest will be best served by a suitable notice of warning."

NEW SECTION. **Section 6. Repealer.** Section 80-6-302, MCA, is repealed.

NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 80, chapter 6, part 3, and the provisions of Title 80, chapter 6, part 3, apply to [section 1].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

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