

HOUSE BILL NO. 52

INTRODUCED BY T. WELCH

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAXATION ADMINISTRATION AND CERTAIN PERSONAL PROPERTY REPORTING REQUIREMENTS; REVISING THE REPORTING REQUIREMENTS FOR FARM IMPLEMENT AND CONSTRUCTION EQUIPMENT IN A PURCHASE INCENTIVE RENTAL TO ANNUAL REPORTING; CLARIFYING THE NAME OF THE DIVISION OF MONTANA STATE UNIVERSITY THAT MAKES THE DETERMINATION OF THE MINIMUM NUMBER OF ANIMAL UNIT MONTHS OF CARRYING CAPACITY; AMENDING SECTIONS 15-6-202 AND 15-7-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 15-6-202, MCA, is amended to read:

**"15-6-202. Freeport merchandise and business inventories exemption -- definitions. (1)**

Freeport merchandise and business inventories are exempt from taxation.

(2) (a) "Freeport merchandise" means stocks of merchandise manufactured or produced outside this state that are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state for storage in transit prior to shipment to a final destination outside the state and that have acquired a taxable situs within the state.

(b) Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged.

(c) A person seeking to qualify the person's property as freeport merchandise shall make application to the department in the manner prescribed by the department.

(3) (a) "Business inventories" include goods primarily intended for sale and not for lease in the ordinary course of business and raw materials and work in progress with respect to those goods. Except for

1 farm implements and construction equipment described in subsection (3)(b), business inventories do not  
2 include goods that are leased or rented.

3 (b) Business inventories include farm implements as defined in 30-11-801 or construction equipment  
4 as defined in 30-11-901 that are held pursuant to a purchase incentive rental program.

5 (4) (a) For the purpose of subsection (3)(b), "purchase incentive rental program" means a program  
6 operated by a dealer of farm implements as defined in 30-11-801 or a dealer of construction equipment as  
7 defined in 30-11-901 under which the farm implement or construction equipment is owned by the dealership,  
8 held for sale, and rented to a single user of the farm implement or construction equipment as an incentive for  
9 the purchase of the property.

10 (b) A purchase incentive rental program does not include a farm implement or construction equipment  
11 that is:

12 (i) rented to a person for more than 9 months;

13 (ii) rented more than once to the same person; or

14 (iii) not owned by a farm implement dealership or construction equipment dealership.

15 (c) All farm implements and construction equipment in a purchase incentive rental program must be  
16 reported to the department ~~each calendar quarter~~ no later than March 31 of each year on a form provided by  
17 the department."  
18

19 **Section 2.** Section 15-7-202, MCA, is amended to read:

20 **"15-7-202. Eligibility of land for valuation as agricultural.** (1)(a) Contiguous parcels of land totaling  
21 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land  
22 each year that none of the parcels is devoted to a residential, commercial, or industrial use.

23 (b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership  
24 that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural  
25 land if:

26 (A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that  
27 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the  
28 owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross

1 income from the raising of agricultural products produced by the land; or

2 (B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for  
3 independent, intervening causes of production failure beyond the control of the producer or a marketing delay  
4 for economic advantage, in which case proof of qualification in a prior year will suffice.

5 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible  
6 for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

7 (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set  
8 forth in subsection (1)(b)(i) as defined in this section; and

9 (B) the land is not devoted to a residential, commercial, or industrial use.

10 (iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership, sole  
11 proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or more  
12 but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued,  
13 assessed, and taxed as agricultural land if the owner:

14 (A) applies to the department requesting classification of the parcel as agricultural;

15 (B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel  
16 is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

17 (C) verifies that:

18 (I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more  
19 of the owner's Montana annual gross income is derived from agricultural production; and

20 (II) property taxes on the property are paid by a family corporation, family partnership, sole  
21 proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's  
22 Montana annual gross income is derived from agricultural production; or

23 (III) the owner is a shareholder, partner, owner, or member of the family corporation, family  
24 partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of  
25 the person's or entity's Montana annual gross income is derived from agricultural production.

26 (c) For the purposes of this subsection (1):

27 (i) "marketing" means the selling of agricultural products produced by the land and includes but is not  
28 limited to:

1 (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other  
2 agricultural purposes; and

3 (B) rental payments made under the federal conservation reserve program or a successor to that  
4 program;

5 (ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is  
6 contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified  
7 agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be  
8 valued as provided in 15-7-206.

9 (2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that  
10 are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each  
11 year that the parcels meet any of the following qualifications:

12 (a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent,  
13 employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural  
14 products as defined in 15-1-101;

15 (b) the parcels would have met the qualification set out in subsection (2)(a) were it not for  
16 independent, intervening causes of production failure beyond the control of the producer or marketing delay for  
17 economic advantage, in which case proof of qualification in a prior year will suffice; or

18 (c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this  
19 section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by  
20 the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels  
21 have not been further divided.

22 (3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and  
23 (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The  
24 minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as  
25 determined by the Montana state university-Bozeman ~~department of agricultural economics and economics~~  
26 college of agriculture.

27 (4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide  
28 agricultural enterprise is not considered a bona fide agricultural operation.

1 (5) (a) Upon application by the property owner, the following parcels of land are eligible for  
2 provisional agricultural classification for 5 years to allow crops to reach salable maturity:

3 (i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit tree  
4 husbandry practices, including pest and disease management, fencing, and a watering system;

5 (ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry practices,  
6 including weed and grass maintenance, pest and disease management, pruning, and trellising and staking; and

7 (iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted  
8 husbandry practices, including regular shearing.

9 (b) Following the 5th year of provisional agricultural classification, the property owner shall submit an  
10 application for agricultural classification. The application must include documentation proving that the property  
11 continues to meet the requirements of subsection (5)(a) and that the income requirements of subsection (2)(a)  
12 have been met.

13 (6) The department may not classify land less than 160 acres as agricultural unless the owner has  
14 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which  
15 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed  
16 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it  
17 must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A  
18 reclassification does not mean revaluation pursuant to 15-7-111.

19 (7) For the purposes of this part, growing timber is not an agricultural use."  
20

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