

SENATE BILL NO. 95

INTRODUCED BY B. TUTVEDT

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING APIARY LAWS; ELIMINATING CLASSIFICATIONS OF APIARY SITES; REVISING REGISTRATION PROCEDURES; REVISING FEES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 80-6-101, 80-6-102, 80-6-104, AND 80-6-201, MCA; REPEALING SECTIONS 80-6-103, 80-6-106, 80-6-111, 80-6-112, 80-6-113, AND 80-6-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. 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 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)(2)~~ "Bees" means any stage *Apis mellifera* and all European subspecies.

(3) "Broker" means a person who is engaged in honey production or who arranges for pollination of agricultural crops for a fee by using hives owned by another person.

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

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

(6) "Disease" 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.

~~(6)(7)~~ "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. The term includes containers of honey and wax used in an apiary or in transporting bees and their products and includes apiary



1 supplies.

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

4 ~~———(8) "General apiary site" means an apiary site other than a pollination apiary site, landowner apiary site,~~
 5 ~~or hobbyist apiary site.~~

6 ~~(9)(8) "Hive" means a frame hive, box hive, box, barrel, log gum, skep, or other receptacle or container~~
 7 ~~or a part of a container, natural or artificial, used as a domicile for bees.~~

8 ~~(10) "Hobbyist apiary site" means an apiary site registered by a hobbyist beekeeper.~~

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

10 ~~———(12) (a) "Landowner" means the person who has the use and exclusive possession of the land upon~~
 11 ~~which the apiary is to be registered.~~

12 ~~———(b) The term does not include a person leasing or renting land for the primary purpose of locating or~~
 13 ~~establishing an apiary.~~

14 ~~———(13) "Landowner apiary site" means an apiary site registered by a landowner.~~

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

16 (9) "Person" means an individual, association, partnership, or corporation.

17 ~~(15)(10) "Pest" means the African honeybee (Apis mellifera scutellata and Apis mellifera capensis), those~~
 18 ~~honeybees Africanized by interbreeding with the African honeybee, and any other parasite or predator that~~
 19 ~~attacks the egg, larval, pupal, or adult stages of the honeybee that are subject to regulation under parts 1 through~~
 20 ~~3 of this chapter as identified by rule of the department.~~

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

23

24 **Section 2.** Section 80-6-102, MCA, is amended to read:

25 **"80-6-102. Registration classes -- reregistration -- fees.** (1) (a) Except as provided in 80-6-114, a
 26 person who owns or possesses an apiary in the state ~~A broker, a person who owns or possesses more than five~~
 27 hives, or a resident of another state who operates hives in Montana shall; register with the department before
 28 April 1 of each year, ~~reregister the apiary site.~~ A person who owns or possesses any bees, hives, colonies, or
 29 beekeeping equipment in this state or who owns or possesses an apiary in this state and who fails or refuses to
 30 register or reregister as provided in this part is subject to a civil penalty as set forth in 80-6-303.

1 **(b) The department shall assess a late fee of 1.5% per month on registration fees received after April**
2 **1 of each year.**

3 ~~(2) (a) Before a certificate of registration may be issued for an apiary site, the owner or applicant for a~~
4 ~~certificate shall pay a reregistration fee to the department.~~

5 ~~(b) The annual fee for reregistering an apiary site may not be less than \$10 or more than \$50. The~~
6 ~~department may adjust the fee by rule to maintain adequate funding for this part.~~

7 ~~(c) If, after reregistration, additional or new apiary sites are authorized for a registered apiary, fees must~~
8 ~~be paid by the registrant in accordance with subsection (2)(b).~~

9 ~~(d)~~**(2)** A site reregistration not applied for by April 1 of each year is a delinquent reregistration and is
10 subject to a penalty fee of 10% of the regular reregistration fee or \$10, whichever is greater.

11 (3) (a) A registrant who fails to apply for reregistration by April 1 of each year must be notified of the
12 delinquency by the department. Notification must be by certified mail, addressed to the registrant at the
13 registrant's most recent address listed in the department's apiary registration files and is considered sufficient
14 when deposited in a United States post office box or mail box on or before April 21.

15 (b) If a delinquent reregistration is not reregistered by June 1, the registration is forfeited ~~and all rights~~
16 ~~under the registration are terminated.~~ After June 1, ~~apiary sites that have not been reregistered~~ **the registration**
17 **information of a person who has not reregistered** may be deleted from the registration database.

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

20 ~~(5)~~**(4)** Registration application blanks must be furnished by the department. The applicant shall provide
21 the following information:

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

23 **(b) the number of bees, by county, to be held by the owner, broker, or other person registering under**
24 **this part in the year for which registration is sought;**

25 **(c) a registration fee as established by the department by rule but not to exceed \$25; and**

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

28 ~~(c) the name of the current owner, renter, or occupant of the land on which the apiary site is located;~~

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

1 that land;

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

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

5 ~~(6)(5)~~ Upon receipt of the application and payment of the fees prescribed, the department may issue
6 ~~certificates~~ a certificate of registration for the apiary sites, setting forth the name of the owner, the specific
7 locations, and the class of apiary sites authorized by the registration to the applicant.

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

11 ~~(8)~~ Suitable evidence of registration must be posted by the apiary registrant in a conspicuous place at
12 or near the apiary site. If an owner has more than one apiary site, suitable evidence of registration must be posted
13 at each apiary site. If the identity of hives cannot be determined, the apiary site may be quarantined by the
14 department and all hives may be removed, destroyed, sold at public auction, or handled in another appropriate
15 manner at the discretion of the department.

16 ~~(9)(6)~~ A reregistration may not be granted pursuant to this section if a civil penalty due under 80-6-303
17 has not been paid."

18

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

20 **"80-6-104. Apiaries -- termination of rights -- abandonment.** ~~(1)~~ Except for a hobbyist apiary site, the
21 registration of an apiary site that is not stocked with at least 10 working hives for 10 consecutive days between
22 April 1 and October 1 of each year is considered forfeited. Exceptions may be granted by the department if sites
23 cannot be used because of a natural disaster or other circumstances. When an exception is granted, movement
24 of hives must be to other registered apiary sites.

25 (1) (a) Suitable evidence of registration must be posted by the apiary registrant in a conspicuous place
26 at or near each apiary, listing at a minimum the name and phone number for a contact person. Failure to comply
27 with this provision may be considered abandonment of the site and is subject to a fine of up to \$50 per
28 occurrence.

29 (b) If the identity of the person responsible for the hives cannot be determined, the apiary may be
30 quarantined by the department and all hives may be removed, destroyed, sold at public auction, or handled in

1 another appropriate manner at the discretion of the department.

2 (2) If an apiary site is not regularly attended in accordance with good beekeeping practice and that lack
3 of attendance ~~comprises~~ poses a hazard or threat to disease or pest control in the beekeeping industry; or if by
4 reason of its physical condition or construction an apiary site cannot be inspected, ~~or if an apiary site is not~~
5 ~~registered in accordance with 80-6-102~~, the apiary site may be considered abandoned and the bees and
6 equipment at the site apiary may be seized by the department.

7 (3) Any pest-infected equipment, diseased equipment, or equipment that by reason of its physical
8 condition or construction cannot be inspected may be burned.

9 (4) Abandoned equipment and bees may be sold by the department at public auction. Proceeds, after
10 the cost of the sale is deducted, ~~may be returned to the former owner or the former owner's estate, if the owner~~
11 ~~is known, or~~ must be placed in the apiary account provided for in 80-6-315 if the owner cannot be determined.

12 (5) Before burning or selling any equipment, the department shall give the owner or person in charge
13 of the apiary site a written notice at least 5 days before the burning or sale. The notice must be by certified mail
14 or personal service upon the owner or person in charge of the apiary site. If the owner or person in charge of the
15 apiary site cannot be located, a certified letter sent to the owner's most recent address registered with the
16 department is sufficient notice under this section. At least 5 days before the burning or sale, a legal notice must
17 also be published in a newspaper in the county where the equipment was found.

18 (6) Before burning any equipment pursuant to subsection (3), the department shall notify the owner of
19 the land on which the apiary site is located."

20

21 **Section 4.** Section 80-6-201, MCA, is amended to read:

22 **"80-6-201. Apiaries -- powers and duties of department.** (1) To prevent the spread of pests and
23 contagious and infectious disease among bees and apiaries, the department may:

24 (a) enter private land containing an apiary site and fly over or enter any farm, railroad right-of-way, or
25 other grounds or premises containing an apiary site to determine the health or ownership of the bees. The
26 department shall provide at least 24 hours' notice to a private landowner before entering private land.

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

29 (c) order disinfection of any bees, hives, brood comb, or any other equipment that is infected or
30 contaminated with disease or pests and burn the infected or contaminated bees, hives, brood comb, or any other

1 equipment if, in its judgment, disinfection will not remove the infection or contamination. Before burning any
2 property, the department shall give the person to whom the apiary ~~site~~ is registered or the owner of an
3 unregistered ~~hobbyist~~ apiary ~~site~~ a written notice at least 5 days before the date the property will be burned. The
4 notice must be given by certified mail or personal service. Before burning any equipment, the department shall
5 notify the owner of the land on which the apiary ~~site~~ is located.

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

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

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

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

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

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

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

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

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

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

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

29 (4) The department may enter into agreements with the United States department of agriculture, other
30 federal agencies, other states, municipal authorities, and individual Montana beekeepers in carrying out the

1 provisions of this part."

2

3 NEW SECTION. **Section 5. Repealer.** The following sections of the Montana Code Annotated are

4 repealed:

5 80-6-103. Changing locations -- transfer of apiary sites.

6 80-6-106. Application fee.

7 80-6-111. General apiary site registrations.

8 80-6-112. Pollination apiary site registrations.

9 80-6-113. Landowner apiary site registrations.

10 80-6-114. Hobbyist apiary site -- voluntary registrations.

11

12 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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