

SENATE BILL NO. 322
INTRODUCED BY CURTISS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO APICULTURE; REQUIRING AN APPLICATION FEE FOR A NEW REGISTRATION OF AN APIARY SITE; REVISING APIARY REREGISTRATION, LOCATION, ABANDONMENT, INSPECTION, QUARANTINE, FEE, AND PENALTY PROVISIONS; ~~EXEMPTING HOBBYIST APIARY SITES FROM REGISTRATION PROVISIONS APPLICATION AND REREGISTRATION FEES~~ REGISTRATION PROVISIONS; AMENDING SECTIONS 80-6-101, 80-6-102, 80-6-103, 80-6-104, 80-6-111, 80-6-112, 80-6-113, 80-6-114, 80-6-201, 80-6-202, 80-6-203, AND 80-6-303, MCA; AND REPEALING SECTIONS 80-6-105 AND 80-6-115, MCA."

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

NEW SECTION. **Section 1. Application fee.** At the time a new application to register an apiary site is submitted to the department by an owner or applicant ~~WHO IS NOT A HOBBYIST BEEKEEPER AND IS~~ not currently registered in the department's apiary database, the owner or applicant shall pay an application fee. The fee may not be less than \$10 or more than \$100. The department may adjust the fee by rule to maintain adequate funding for this part.

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 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 mellifera and all European subspecies.

(4) "Colony" means the bees and the hive and all equipment used in connection with ~~the~~ that 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~~. The term includes containers of honey and wax used in an apiary or in transporting bees and their products and includes 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 site" means an apiary site other than a pollination apiary site, landowner apiary site, or hobbyist apiary site.

(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 site" means an apiary ~~owned~~ site registered by a hobbyist beekeeper.

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

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

(b) However, The term does not include a person leasing or renting land for the primary purpose of locating or establishing an apiary ~~is not considered a landowner~~.

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

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

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

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

Section 3. Section 80-6-102, MCA, is amended to read:

"80-6-102. Registration classes -- reregistration -- fees. (1) ~~A~~ EXCEPT AS PROVIDED IN 80-6-114, A ~~A~~ EXCEPT AS PROVIDED IN 80-6-114, A person who owns or possesses an apiary in the state shall, before April 1 each year, ~~register~~ reregister the apiary site. A person who owns or possesses any bees, hives, colonies, or beekeeping equipment in this state or who owns or possesses an apiary in this state and who fails or refuses to register or reregister as provided in this part is subject to a civil penalty as set forth in 80-6-303.

(2) (a) Before a certificate of registration may be issued for an apiary site, the owner or applicant for a

certificate shall pay a reregistration fee to the department.

(b) ~~(i) The EXCEPT AS PROVIDED IN SUBSECTION (2)(B)(II), THE~~ THE annual fee for reregistering an apiary site may not be less than \$10 or more than \$50. The department may adjust the fee by rule to maintain adequate funding for this part.

~~(ii) A HOBBYIST BEEKEEPER IS EXEMPT FROM THE REREGISTRATION FEE REQUIRED IN SUBSECTION (2)(B)(I):~~

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

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

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

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

(4) There are four classes of apiary site registration. The conditions under which the department may issue certificates of registration for each class are specified in 80-6-111 through ~~80-6-115~~ 80-6-114.

~~(2) Applications shall be made to the department for registration application blanks.~~

~~(3)~~(5) Registration application blanks ~~shall~~ must be furnished by the department. The applicant shall provide the following information:

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

~~(b) the number of colonies of bees, hives, and equipment in the apiary;~~

~~(c)~~(b) the location of the apiary site, ~~setting forth specifically the location by sectional division to the nearest quarter section, and the section, township, and range or the GPS coordinates of the site and, if within the corporate limits of a town or city, the number of the lot and block in the town or city;~~

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

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

~~_____ (e) the date when the apiary was first established;~~
 (f)(e) the class of apiary site registration for which application is being made; and
 (g)(f) other information that the department may require under rules adopted by it for the protection, safety, and welfare of the public and the beekeeping industry.

(4)(6) Upon receipt of the application and payment of the fees prescribed, the department may issue a ~~certificate~~ certificates of registration for ~~an~~ the apiary sites, setting forth the name of the owner, the specific location locations, ~~the number of colonies of bees or size of the apiary authorized under the registration,~~ and the class of apiary sites authorized by the registration.

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

~~_____ (6) Certificates of registration may not be issued for new apiaries which are within such close proximity to established registered apiaries that there is or may be danger of spread of disease or pests or that the proximity will or may interfere with the proper feeding and honey flow of established apiaries.~~

~~_____ (7) Before registering new apiaries, the department shall give at least 10 days' notice by certified mail to all registered apiarists likely to be affected by the proposed new apiary so that any party affected may file written protests with the department against registering the new apiary. If a written protest is filed, the department may require a hearing. Notice of the time and place of the hearing shall be given all parties interested by certified mail at least 10 days before the date set for the hearing.~~

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

~~_____ (9) A registration not applied for by April 1 of each year is a late registration and incurs an added penalty of 10% of the regular registration fee or \$10, whichever is greater. Registrants who fail to apply for reregistration by April 1 of each year shall be notified of their delinquency by the department. The notification shall be by certified mail and is sufficient if deposited in a United States post office or mail box and addressed to the registrant at his last address appearing in the apiary registration files of the department at least 10 days before May 1. The registration of an apiary for which application for reregistration is not made by May 1 of each year is forfeited and all rights under the registration terminate.~~

~~———— (10) Any person who owns or possesses any bees, hives, colonies, or beekeeping equipment in this state or who owns or possesses an apiary in this state and who fails or refuses to register the same as provided in this part is guilty of a misdemeanor and upon conviction thereof is subject to the penalties set forth in 80-6-303.~~

~~———— (11) Nothing contained in this section or in 80-6-111 through 80-6-115 shall be construed as invalidating, canceling, amending, terminating, or extending any certificate of registration issued by the department prior to October 1, 1981. All such previously issued certificates of registration remain in effect for the period for which they were issued, subject, however, to forfeiture, lapse, abandonment, and termination in the manner provided by law.~~

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

Section 4. Section 80-6-103, MCA, is amended to read:

"80-6-103. Changing locations -- enlarging or selling apiaries transfer of apiary sites. (1) An owner of ~~an established~~ a registered apiary site may not change the location of the apiary site without first receiving from the department authorization to establish the new apiary site if the apiary site is outside the currently registered quarter-section. In making the application, ~~he~~ the owner shall specify the location of the apiary site with the same particularity as in the application for original registration.

(2) If the new apiary site is not used within 60 days after a new certificate of registration is issued, the certificate of registration lapses and all rights under the registration terminate. ~~Registrations for new apiaries may not be issued for greater areas than the applicant can show are reasonably necessary for his needs consistent with good beekeeping practice.~~

~~(2)(3)~~ (3) A registered apiary site may be sold or transferred to a purchaser subject to parts 1 through 3 of this chapter if all bees and equipment on the apiary site are sold to the ~~purchaser~~ transferee.

~~———— (3) No person may increase the number of hives on an apiary to exceed the number of hives authorized by his certificate of registration for that apiary, except that a person may increase the number of hives on a general apiary beyond the number authorized by the certificate of registration in order to protect his bees during adverse weather or crop conditions or to protect his bees and hives from bears or other predators. A person may also enlarge a general apiary during the spring buildup and in the fall after the end of the honey season in order to gather his bees for shipment out of the state or to winter his bees on that apiary.~~

~~———— (4) A person enlarging an apiary so as to exceed the number of hives herein allowed is guilty of a misdemeanor and is subject to the penalties set forth in 80-6-303."~~

Section 5. Section 80-6-104, MCA, is amended to read:

"80-6-104. Apiaries -- termination of rights -- abandonment. (1) The EXCEPT FOR A HOBBYIST APIARY SITE, THE registration of an apiary which is site that is not stocked with bees during at least part of the normal build-up or honey-producing season is forfeited and all rights under the certificate of registration terminate at least 10 working hives for 10 consecutive days between April 1 and October 1 of each year is considered forfeited. Exceptions may be granted by the department if sites cannot be used because of a natural disaster or other circumstances. When an exception is granted, movement of hives must be to other registered apiary sites.

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

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

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

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

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

Section 6. Section 80-6-111, MCA, is amended to read:

"80-6-111. General apiary site registrations. (1) In order to control, limit, and prevent the spread of bee diseases, pests, and other contagious or infectious diseases among bees, hives, and apiaries and to control, limit, and prevent interference with the proper feeding and honey flow, as it relates to bee health of established apiaries, general apiaries registered to different persons on October 1, 1981, apiary sites must be located 3 or

more miles apart; except as otherwise provided in this part. The department ~~shall~~ may not register or issue a certificate of registration for any general apiary site ~~that is located less than 3 miles from a general apiary registered to another person~~, except as ~~otherwise~~ provided in this section.

(2) A person may register a general apiary site that is situated less than 3 miles from another general apiary ~~he site that person~~ has registered ~~so long as~~ if the location of the general apiary site being applied for is 3 or more miles from general ~~apiaries~~ apiary sites registered to other persons.

(3) A general apiary site may be registered even ~~though~~ if it is less than 3 miles from any registered pollination apiary site, landowner apiary site, or hobbyist apiary site.

(4) (a) A person with an existing apiary site that is located less than 3 miles from an existing general apiary site ~~registered to another person~~ may register ~~his~~ that apiary site as a general apiary site under the following conditions:

~~— (a) his apiary was established and registered with the department as a general apiary under the department's rules in effect prior to July 1, 1981;~~

(b)(i) his the existing apiary site is registered with the department as a general apiary site as of July 1, 1981; ~~and~~

(c)(ii) the registration of his the existing apiary site has not been forfeited or abandoned under the provisions of 80-6-102~~(9)~~(3) or 80-6-104.

(b) General apiary sites registered prior to July 1, 1981, may be moved if authorized by the department.

(5) Certificates of registration may not be issued for new apiary sites that are within such close proximity to established registered apiary sites that there is or may be danger of the spread of disease or pests or if the proximity will or may interfere with the proper feeding and honey flow of established apiaries.

(6) Before registering new apiary sites, the department shall give at least 10 days' notice by certified mail to all registered apiarists who are likely to be affected by the proposed new apiary site. Any affected party may file a written protest with the department against registering the new apiary site. If a written protest is filed, the department may require a hearing. Notice of the time and place of the hearing must be given to all interested parties by certified mail at least 10 days before the date set for the hearing. If a hearing is held, the department in its discretion may issue or refuse to issue the new apiary site registration."

Section 7. Section 80-6-112, MCA, is amended to read:

"80-6-112. Pollination apiary site registrations. (1) The department may grant pollination apiary site registrations to commercial seed ~~and~~ producers, fruit producers, or other commercial agricultural producers under

the following conditions:

(a) (i) the applicant must own, lease, or rent the land upon which the pollination apiary site is to be located and the applicant must use the land for the purpose of growing a commercial seed, fruit, or other crop ~~which~~ that is dependent upon bees or other insects for pollination;

(ii) the applicant ~~does~~ may not own the bees or the hives ~~which~~ that are to be placed upon the pollination apiary site; and

(iii) the only purpose of the pollination apiary site is to pollinate a commercial agricultural crop.

(b) The applicant shall provide the department with all pertinent information necessary to determine if pollination ~~apiaries~~ apiary sites are needed to adequately pollinate the applicant's crop ~~adequately~~.

(c) The department may refuse to register a pollination apiary site based upon its own investigation ~~of the matter~~, but if the department approves the application, it shall specify the number and location of pollination ~~apiaries~~ apiary sites needed for the purpose of adequately pollinating the applicant's commercial agricultural crop ~~adequately~~.

(2) A pollination apiary site registration is valid only for the time ~~period~~ specified by the department, and all pollination apiaries must be removed within 2 weeks after the full bloom period of the crop to be pollinated.

(3) ~~No~~ A certificate of registration of a pollination apiary site may not be leased, assigned, or transferred ~~and no person other~~. A person, other than the pollination apiary site registrant, may not exercise any rights or privileges, directly or indirectly, authorized by the certificate of registration.

(4) The department shall attempt to notify any general apiarist with registered apiary sites located within 3 miles of a proposed pollination apiary site of the potential location of the proposed pollination apiary site."

Section 8. Section 80-6-113, MCA, is amended to read:

"80-6-113. Landowner apiary site registrations. (1) The department may grant landowner apiary site registrations under the following conditions:

(a) The applicant must be a landowner, ~~as defined in 80-6-101~~, and must own the land upon which the apiary site will be located.

(b) The applicant must own the bees and the hives that will be placed on the apiary site.

(c) The bees and the hives must be personally managed and operated by the applicant.

(2) ~~No~~ A certificate of registration of a landowner apiary site may not be leased, assigned, or transferred; ~~and no person other~~. A person, other than the landowner apiary site registrant, may not exercise any rights or privileges, directly or indirectly, authorized by the certificate of registration.

(3) The department shall attempt to notify any general apiarist with registered apiary sites located within 3 miles of a proposed landowner apiary site of the potential location of the landowner apiary site.

~~———— (4) No more than three sites may be registered as landowner apiary sites to an individual landowner or family unit. If more than three sites are requested, the landowner shall apply for general apiary site registrations for the additional sites and all subsequent sites registered by that landowner must be registered as general apiary sites and must meet the requirements of general apiary sites.~~

~~(5)(4) When a landowner apiary business changes to a general apiary business, the landowner apiary sites established and registered with the department as landowner apiary sites under the department's rules in effect prior to July 1, 2009, remain valid regardless of location with regard to other apiary sites, including general apiary sites within 3 miles, as long as the registration of the landowner apiary sites has not been forfeited or abandoned pursuant to 80-6-102 or 80-6-104."~~

Section 9. Section 80-6-114, MCA, is amended to read:

"80-6-114. Hobbyist apiary site ~~--VOLUNTARY~~ -- VOLUNTARY registrations. ~~(1) A HOBBYIST APIARY SITE IS EXEMPT FROM THE REGISTRATION PROVISIONS OF THIS PART, BUT A HOBBYIST BEEKEEPER MAY VOLUNTARILY REGISTER WITH THE DEPARTMENT UNDER THIS SECTION. A HOBBYIST BEEKEEPER VOLUNTARILY REGISTERING A SITE SHALL PAY ANY REQUIRED REGISTRATION FEE BUT IS NOT REQUIRED TO REREGISTER PURSUANT TO 80-6-102.~~

~~(1) A HOBBYIST APIARY SITE IS EXEMPT FROM THE REGISTRATION PROVISIONS OF THIS PART, BUT A HOBBYIST BEEKEEPER MAY VOLUNTARILY REGISTER WITH THE DEPARTMENT UNDER THIS SECTION. A HOBBYIST BEEKEEPER VOLUNTARILY REGISTERING A SITE SHALL PAY ANY REQUIRED REGISTRATION FEE BUT IS NOT REQUIRED TO REREGISTER PURSUANT TO 80-6-102.~~

~~(1)(2)(1)(2) The department may grant hobbyist apiary site registrations to hobbyist beekeepers under the following conditions:~~

~~(a) The applicant ~~must~~ may not own a total of more than five hives, and all of the hives must be placed on the hobbyist apiary site.~~

~~(b) The applicant must own the bees and the hives and must personally manage and operate the bees and the hives.~~

~~(c) Only one hobbyist apiary site registration is allowed for an applicant and only two hobbyist apiary site registrations are allowed for a family unit.~~

~~———— (d) If the department determines that too many hobbyist apiaries apiary sites are being registered within too close proximity of each other or of other established apiaries apiary sites so that there is or may be danger~~

~~of the spread of bee diseases, pests, or other contagious or infectious diseases among bees or apiaries or that there will be interference with the proper feeding and honey flow of established apiaries, the department may refuse to grant any further hobbyist apiary site registrations in the locality and area of the danger, in accordance with 80-6-102(6) 80-6-111(5) or as determined by department rule.~~

~~(2)(3)(2)(3) No A certificate of registration of a hobbyist apiary site may not be leased, assigned, or transferred, and no person other. A person, other than the hobbyist apiary site registrant, may not exercise any rights or privileges, directly or indirectly, authorized by the certificate of registration."~~

Section 10. Section 80-6-201, MCA, is amended to read:

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

~~(a) enter private land containing an apiary site and fly over or enter any farm, railroad right-of-way, or other grounds or premises containing an apiary site to determine the health or ownership of the bees; THE DEPARTMENT SHALL PROVIDE AT LEAST 24 HOURS' NOTICE TO A PRIVATE LANDOWNER BEFORE ENTERING PRIVATE LAND.~~

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

~~(b)(c) order disinfection of any bee bees, beehive hives, brood comb, or any other equipment that is infected or contaminated with disease or pests and burn any the infected or contaminated bee bees, beehive hives, brood comb, or any other equipment if, in its judgment, disinfection will not remove the infection or contamination. Before burning any property, the department shall give the owner or person in charge to whom the apiary site is registered OR THE OWNER OF AN UNREGISTERED HOBBYIST APIARY SITE a written notice at least 5 days before the date the property will be burned. The notice must be given by certified mail or personal service upon the owner or person in charge of the property. Before burning any equipment, the department shall notify the owner of the land on which the apiary site is located.~~

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

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

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

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

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

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

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

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

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

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

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

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

Section 11. 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~~ Bees and beekeeping equipment or containers, including ~~honey to be extracted~~, unless under a ~~compliance agreement~~ A CERTIFICATE OF HEALTH THAT ALLOWS FOR SEASONAL TRANSPORTATION OF BEES AND BEEKEEPING EQUIPMENT INTO MONTANA WITHOUT INSPECTION, or certified and marked as being apparently pest- and disease-free by an official responsible for apiary regulations of the state from which they are being moved that are transported into Montana from another state must be certified as pest-free and disease-free by either the originating state or by the department. A person who transports bees or beekeeping equipment into Montana shall present the required certification to the department. If the bees or beekeeping equipment cannot be certified as pest-free and disease-free, the bees or beekeeping equipment must be treated appropriately under the supervision of a federal authority, a representative of the originating state, or

a representative of the department.

(2) 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)(e)(1)(d), 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 4~~. The beekeeping materials are also subject to quarantine as provided in this section.

(3) The department may also inspect and certify as being apparently ~~pest-~~ pest-free 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)(4)~~ (a) The costs of making the inspections provided for in ~~subsection (1)~~ subsections (1) through (3) must be paid ~~in advance~~ by the owner of the bees or equipment following the inspection.

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

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

(ii) necessary traveling expenses; and

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

~~— (iv) except as provided in this subsection (2)(b)(iv), a fee of \$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~~ \$150.

(c) Persons transporting bees interstate with a valid Montana ~~compliance agreement~~ certificate of health 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 \$75 for the issuance of a certificate of health,~~ which may not be less than \$50 or more than \$150. 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~~ that fact 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~~ the department 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 ~~\$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~~ \$150."

Section 12. Section 80-6-203, MCA, is amended to read:

"80-6-203. Importation of bees in ~~combless~~ packages or queen cages. A person or common carrier may not transport or bring bees into this state ~~bees in combless packages or queen cages~~ unless ~~they~~ the packages or queen cages are accompanied by a certificate of health issued by the official inspector of the state or country from which they came."

Section 13. Section 80-6-303, MCA, is amended to read:

"80-6-303. Penalty. (1) (a) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A person violating or aiding in the violation of parts 1 through 3 of this chapter 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~~ ~~\$2,500~~ ~~\$25,000~~ \$1,000 for each offense. Assessment of a penalty under this subsection (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 state special revenue account provided for in 80-6-315.

~~———— (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.~~

(b) A person who is assessed a penalty for violating parts 1 through 3 of this chapter is also subject to payment of costs incurred by the department for inspections or investigations related to the violation.

(2) (A) A PERSON VIOLATING OR AIDING IN THE VIOLATION OF THE PROVISIONS OF 80-6-202 IS SUBJECT TO AN ADMINISTRATIVE CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR EACH OFFENSE. ASSESSMENT OF A PENALTY UNDER THIS SUBSECTION (2)(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 STATE SPECIAL REVENUE ACCOUNT PROVIDED FOR IN 80-6-315.

(B) A PERSON WHO IS ASSESSED A PENALTY FOR VIOLATING 80-6-315 IS ALSO SUBJECT TO PAYMENT OF COSTS INCURRED BY THE DEPARTMENT FOR INSPECTIONS OR INVESTIGATIONS RELATED TO THE VIOLATION.

~~(2)~~(3) 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)~~(4) 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 14. Repealer. Sections 80-6-105 and 80-6-115, MCA, are repealed.

NEW SECTION. Section 15. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 80, chapter 6, part 1, and the provisions of Title 80, chapter 6, part 1, apply to [section 1].

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