

UTAH AGRICULTURE CODE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill recodifies and modifies Title 4, Utah Agricultural Code.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ states that the Department of Agriculture and Food may contract for services and accept and administer grants;
- ▶ modifies the duties of the state veterinarian;
- ▶ states that the Department of Agriculture and Food may require labels on certain products;
- ▶ states that the Department of Agriculture and Food may make rules in regard to "Utah's Own," a program dedicated to the promotion of locally produced products of agriculture;
- ▶ authorizes the Department of Agriculture and Food to deny, revoke, or suspend a pesticide applicator license;
- ▶ modifies the membership of the State Weed Committee;
- ▶ authorizes the Agricultural Advisory Board to create a subcommittee;
- ▶ states that the owner of a bull that has not been tested for trichomoniasis may be fined \$1,000 per bull;
- ▶ states that a person who owns or possesses an infected animal may be liable for damages inflicted by the animal;
- ▶ modifies the length of time a domesticated elk facility shall maintain its records;

30 ▶ authorizes the Department of Agriculture and Food to set a fee for the application of
31 an industrial hemp certificate;

32 ▶ strikes outdated language; and

33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a special effective date.

38 This bill provides coordination clauses.

39 **Utah Code Sections Affected:**

40 **AMENDS:**

41 4-2-401, as enacted by Laws of Utah 2014, Chapter 41

42 4-2-402, as last amended by Laws of Utah 2016, Chapter 18

43 4-2-502, as enacted by Laws of Utah 2015, Chapter 128

44 4-2-503, as enacted by Laws of Utah 2015, Chapter 128

45 4-2-504, as enacted by Laws of Utah 2015, Chapter 128

46 4-12-4, as last amended by Laws of Utah 1985, Chapter 130

47 4-18-102, as last amended by Laws of Utah 2014, Chapter 383

48 4-18-104, as renumbered and amended by Laws of Utah 2013, Chapter 227

49 4-18-105, as last amended by Laws of Utah 2016, Chapter 19

50 4-18-106, as last amended by Laws of Utah 2016, Chapter 19

51 4-18-107, as last amended by Laws of Utah 2014, Chapter 383

52 4-18-108, as renumbered and amended by Laws of Utah 2014, Chapters 189 and 383

53 4-26-101, as renumbered and amended by Laws of Utah 2012, Chapter 331

54 4-26-102, as renumbered and amended by Laws of Utah 2012, Chapter 331

55 4-26-104, as enacted by Laws of Utah 2016, Chapter 18

56 4-31-105, as renumbered and amended by Laws of Utah 2012, Chapter 331

57 4-31-106, as renumbered and amended by Laws of Utah 2012, Chapter 331

58 **4-31-107**, as renumbered and amended by Laws of Utah 2012, Chapter 331
59 **4-31-108**, as renumbered and amended by Laws of Utah 2012, Chapter 331
60 **4-31-109.1**, as enacted by Laws of Utah 2015, Chapter 414
61 **4-31-113**, as renumbered and amended by Laws of Utah 2012, Chapter 331
62 **4-31-114**, as renumbered and amended by Laws of Utah 2012, Chapter 331
63 **4-31-115**, as renumbered and amended by Laws of Utah 2012, Chapter 331
64 **4-31-116**, as renumbered and amended by Laws of Utah 2012, Chapter 331
65 **4-39-102**, as enacted by Laws of Utah 1997, Chapter 302
66 **4-39-104**, as last amended by Laws of Utah 2016, Chapter 19
67 **4-39-107**, as enacted by Laws of Utah 1997, Chapter 302
68 **4-39-108**, as enacted by Laws of Utah 1997, Chapter 302
69 **4-39-201**, as last amended by Laws of Utah 2010, Chapter 378
70 **4-39-202**, as enacted by Laws of Utah 1997, Chapter 302
71 **4-39-203**, as last amended by Laws of Utah 2009, Chapter 183
72 **4-39-205**, as last amended by Laws of Utah 2010, Chapter 378
73 **4-39-206**, as last amended by Laws of Utah 2010, Chapter 378
74 **4-39-207**, as enacted by Laws of Utah 1997, Chapter 302
75 **4-39-301**, as enacted by Laws of Utah 1997, Chapter 302
76 **4-39-304**, as last amended by Laws of Utah 2010, Chapter 378
77 **4-39-305**, as last amended by Laws of Utah 2010, Chapter 378
78 **4-39-306**, as last amended by Laws of Utah 2010, Chapter 378
79 **4-39-401**, as last amended by Laws of Utah 2014, Chapter 189
80 **4-39-402**, as enacted by Laws of Utah 1997, Chapter 302
81 **4-40-102**, as renumbered and amended by Laws of Utah 2011, Chapter 124
82 **4-41-103**, as enacted by Laws of Utah 2014, Chapter 25
83 **10-8-85.8**, as enacted by Laws of Utah 2007, Chapter 146
84 **11-38-302**, as last amended by Laws of Utah 2009, Chapters 344 and 368
85 **17-50-323**, as enacted by Laws of Utah 2007, Chapter 146

86 **17D-3-102**, as last amended by Laws of Utah 2013, Chapter 227
87 **23-13-19**, as enacted by Laws of Utah 2009, Chapter 308
88 **23-24-1**, as last amended by Laws of Utah 2011, Chapter 297
89 **26-15-1**, as last amended by Laws of Utah 2007, Chapter 146
90 **58-37c-19.5**, as last amended by Laws of Utah 2013, Chapters 262 and 413
91 **63A-3-205**, as last amended by Laws of Utah 2014, Chapter 227
92 **63B-1b-102**, as last amended by Laws of Utah 2014, Chapter 227
93 **63B-1b-202**, as last amended by Laws of Utah 2014, Chapters 203 and 227
94 **63E-1-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
95 **63I-4a-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
96 **63J-7-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
97 **63L-8-403**, as enacted by Laws of Utah 2016, Chapter 317
98 **72-7-401**, as last amended by Laws of Utah 2005, Chapter 2
99 **72-9-502**, as last amended by Laws of Utah 2008, Chapter 382
100 **73-20-2**, as last amended by Laws of Utah 1994, Chapter 12
101 **76-6-111**, as last amended by Laws of Utah 2015, Chapters 172 and 258
102 **78B-4-202**, as last amended by Laws of Utah 2015, Chapter 258

103 ENACTS:

104 **4-2-101**, Utah Code Annotated 1953
105 **4-3-101**, Utah Code Annotated 1953
106 **4-9-101**, Utah Code Annotated 1953
107 **4-18-201**, Utah Code Annotated 1953
108 **4-19-101**, Utah Code Annotated 1953
109 **4-20-102**, Utah Code Annotated 1953
110 **4-22-101**, Utah Code Annotated 1953
111 **4-25-101**, Utah Code Annotated 1953
112 **4-30-101**, Utah Code Annotated 1953
113 **4-34-101**, Utah Code Annotated 1953

114 RENUMBERS AND AMENDS:

115 **4-1-101**, (Renumbered from 4-1-1, as enacted by Laws of Utah 1979, Chapter 2)

116 **4-1-102**, (Renumbered from 4-1-2, as enacted by Laws of Utah 1979, Chapter 2)

117 **4-1-103**, (Renumbered from 4-1-3, as enacted by Laws of Utah 1979, Chapter 2)

118 **4-1-104**, (Renumbered from 4-1-3.5, as last amended by Laws of Utah 2008, Chapter
119 382)

120 **4-1-105**, (Renumbered from 4-1-4, as last amended by Laws of Utah 2008, Chapter
121 156)

122 **4-1-106**, (Renumbered from 4-1-5, as last amended by Laws of Utah 1987, Chapter
123 161)

124 **4-1-107**, (Renumbered from 4-1-6, as last amended by Laws of Utah 1985, Chapter
125 130)

126 **4-1-108**, (Renumbered from 4-1-7, as last amended by Laws of Utah 2010, Chapter
127 378)

128 **4-1-109**, (Renumbered from 4-1-8, as last amended by Laws of Utah 2010, Chapter
129 324)

130 **4-1-110**, (Renumbered from 4-1-9, as enacted by Laws of Utah 2012, Chapter 401)

131 **4-2-102**, (Renumbered from 4-2-1, as last amended by Laws of Utah 1997, Chapter 82)

132 **4-2-103**, (Renumbered from 4-2-2, as last amended by Laws of Utah 2011, Chapter
133 383)

134 **4-2-104**, (Renumbered from 4-2-3, as last amended by Laws of Utah 2002, Chapter
135 176)

136 **4-2-105**, (Renumbered from 4-2-4, as last amended by Laws of Utah 1987, Chapter 15)

137 **4-2-106**, (Renumbered from 4-2-5, as enacted by Laws of Utah 1979, Chapter 2)

138 **4-2-107**, (Renumbered from 4-2-6, as last amended by Laws of Utah 1984, Chapter 67)

139 **4-2-108**, (Renumbered from 4-2-7, as last amended by Laws of Utah 2016, Chapter 19)

140 **4-2-109**, (Renumbered from 4-2-8, as last amended by Laws of Utah 2011, Chapter
141 383)

142 **4-2-201**, (Renumbered from 4-2-9, as last amended by Laws of Utah 1997, Chapters 10
143 and 81)
144 **4-2-202**, (Renumbered from 4-2-10, as last amended by Laws of Utah 2007, Chapter
145 179)
146 **4-2-301**, (Renumbered from 4-2-11, as last amended by Laws of Utah 2013, Chapter
147 237)
148 **4-2-302**, (Renumbered from 4-2-12, as last amended by Laws of Utah 1996, Chapter
149 79)
150 **4-2-303**, (Renumbered from 4-2-14, as enacted by Laws of Utah 1985, Chapter 104)
151 **4-2-304**, (Renumbered from 4-2-15, as last amended by Laws of Utah 2010, Chapter
152 378)
153 **4-3-102**, (Renumbered from 4-3-1, as last amended by Laws of Utah 2015, Chapter
154 112)
155 **4-3-201**, (Renumbered from 4-3-2, as last amended by Laws of Utah 2008, Chapter
156 382)
157 **4-3-202**, (Renumbered from 4-3-3, as enacted by Laws of Utah 1979, Chapter 2)
158 **4-3-203**, (Renumbered from 4-3-4, as last amended by Laws of Utah 2007, Chapter
159 179)
160 **4-3-204**, (Renumbered from 4-3-5, as enacted by Laws of Utah 1979, Chapter 2)
161 **4-3-205**, (Renumbered from 4-3-6, as enacted by Laws of Utah 1979, Chapter 2)
162 **4-3-206**, (Renumbered from 4-3-7, as last amended by Laws of Utah 2007, Chapter
163 179)
164 **4-3-301**, (Renumbered from 4-3-8, as last amended by Laws of Utah 2007, Chapter
165 179)
166 **4-3-302**, (Renumbered from 4-3-9, as last amended by Laws of Utah 1987, Chapter
167 161)
168 **4-3-401**, (Renumbered from 4-3-10, as last amended by Laws of Utah 2015, Chapter
169 112)

170 **4-3-402**, (Renumbered from 4-3-11, as last amended by Laws of Utah 2001, Chapter
171 87)
172 **4-3-403**, (Renumbered from 4-3-12, as enacted by Laws of Utah 1979, Chapter 2)
173 **4-3-501**, (Renumbered from 4-3-1.3, as enacted by Laws of Utah 2015, Chapter 112)
174 **4-3-502**, (Renumbered from 4-3-13, as last amended by Laws of Utah 2015, Chapter
175 112)
176 **4-3-503**, (Renumbered from 4-3-14, as last amended by Laws of Utah 2016, Chapter
177 402)
178 **4-4-101**, (Renumbered from 4-4-1, as enacted by Laws of Utah 1979, Chapter 2)
179 **4-4-102**, (Renumbered from 4-4-2, as last amended by Laws of Utah 2008, Chapter
180 382)
181 **4-4-103**, (Renumbered from 4-4-3, as enacted by Laws of Utah 1979, Chapter 2)
182 **4-4-104**, (Renumbered from 4-4-4, as last amended by Laws of Utah 2007, Chapter
183 179)
184 **4-4-105**, (Renumbered from 4-4-5, as enacted by Laws of Utah 1979, Chapter 2)
185 **4-4-106**, (Renumbered from 4-4-6, as enacted by Laws of Utah 1979, Chapter 2)
186 **4-5-101**, (Renumbered from 4-5-1, as last amended by Laws of Utah 1990, Chapter
187 157)
188 **4-5-102**, (Renumbered from 4-5-2, as last amended by Laws of Utah 2007, Chapter
189 146)
190 **4-5-103**, (Renumbered from 4-5-7, as last amended by Laws of Utah 2010, Chapter
191 378)
192 **4-5-104**, (Renumbered from 4-5-17, as last amended by Laws of Utah 2007, Chapter
193 179)
194 **4-5-105**, (Renumbered from 4-5-18, as last amended by Laws of Utah 2010, Chapter
195 378)
196 **4-5-106**, (Renumbered from 4-5-19, as last amended by Laws of Utah 1990, Chapter
197 157)

198 **4-5-201**, (Renumbered from 4-5-8, as last amended by Laws of Utah 2010, Chapter
199 378)
200 **4-5-202**, (Renumbered from 4-5-5, as last amended by Laws of Utah 2010, Chapter
201 378)
202 **4-5-203**, (Renumbered from 4-5-10, as last amended by Laws of Utah 2007, Chapter
203 179)
204 **4-5-204**, (Renumbered from 4-5-11, as last amended by Laws of Utah 1990, Chapter
205 157)
206 **4-5-205**, (Renumbered from 4-5-15, as last amended by Laws of Utah 2010, Chapter
207 378)
208 **4-5-206**, (Renumbered from 4-5-16, as last amended by Laws of Utah 1990, Chapter
209 157)
210 **4-5-207**, (Renumbered from 4-5-6, as last amended by Laws of Utah 2007, Chapter
211 179)
212 **4-5-301**, (Renumbered from 4-5-9, as last amended by Laws of Utah 2010, Chapter
213 378)
214 **4-5-401**, (Renumbered from 4-5-3, as last amended by Laws of Utah 2004, Chapter
215 358)
216 **4-5-402**, (Renumbered from 4-5-4, as last amended by Laws of Utah 1985, Chapter
217 104)
218 **4-5-501**, (Renumbered from 4-5-9.5, as last amended by Laws of Utah 2008, Chapter
219 382)
220 **4-5-502**, (Renumbered from 4-5-20, as enacted by Laws of Utah 2011, Chapter 156)
221 **4-7-101**, (Renumbered from 4-7-1, as last amended by Laws of Utah 2011, Chapter
222 383)
223 **4-7-102**, (Renumbered from 4-7-2, as last amended by Laws of Utah 2011, Chapter
224 383)
225 **4-7-103**, (Renumbered from 4-7-3, as last amended by Laws of Utah 2016, Chapter 18)

226 **4-7-104**, (Renumbered from 4-7-4, as last amended by Laws of Utah 1990, Chapter 25)
227 **4-7-105**, (Renumbered from 4-7-5, as last amended by Laws of Utah 2011, Chapter
228 383)
229 **4-7-106**, (Renumbered from 4-7-6, as last amended by Laws of Utah 1995, Chapter 41)
230 **4-7-107**, (Renumbered from 4-7-7, as last amended by Laws of Utah 2011, Chapter
231 383)
232 **4-7-108**, (Renumbered from 4-7-8, as last amended by Laws of Utah 2011, Chapter
233 383)
234 **4-7-109**, (Renumbered from 4-7-9, as last amended by Laws of Utah 2011, Chapter
235 383)
236 **4-7-110**, (Renumbered from 4-7-10, as last amended by Laws of Utah 2011, Chapter
237 383)
238 **4-7-201**, (Renumbered from 4-7-11, as last amended by Laws of Utah 2011, Chapter
239 383)
240 **4-7-202**, (Renumbered from 4-7-12, as last amended by Laws of Utah 2011, Chapter
241 383)
242 **4-7-203**, (Renumbered from 4-7-13, as last amended by Laws of Utah 2011, Chapter
243 383)
244 **4-7-204**, (Renumbered from 4-7-13.5, as enacted by Laws of Utah 1985, Chapter 24)
245 **4-7-205**, (Renumbered from 4-7-14, as last amended by Laws of Utah 2011, Chapter
246 383)
247 **4-8-101**, (Renumbered from 4-8-1, as enacted by Laws of Utah 1979, Chapter 2)
248 **4-8-102**, (Renumbered from 4-8-2, as enacted by Laws of Utah 1979, Chapter 2)
249 **4-8-103**, (Renumbered from 4-8-3, as enacted by Laws of Utah 1979, Chapter 2)
250 **4-8-104**, (Renumbered from 4-8-4, as last amended by Laws of Utah 2010, Chapter
251 324)
252 **4-8-105**, (Renumbered from 4-8-5, as enacted by Laws of Utah 1979, Chapter 2)
253 **4-8-106**, (Renumbered from 4-8-6, as last amended by Laws of Utah 1987, Chapter

254 161)
255 **4-8-107**, (Renumbered from 4-8-7, as last amended by Laws of Utah 2007, Chapter
256 179)
257 **4-9-102**, (Renumbered from 4-9-1, as last amended by Laws of Utah 2004, Chapter
258 358)
259 **4-9-103**, (Renumbered from 4-9-2, as last amended by Laws of Utah 2008, Chapter
260 382)
261 **4-9-104**, (Renumbered from 4-9-3, as last amended by Laws of Utah 2004, Chapter
262 358)
263 **4-9-105**, (Renumbered from 4-9-4, as last amended by Laws of Utah 2004, Chapter
264 358)
265 **4-9-106**, (Renumbered from 4-9-5, as last amended by Laws of Utah 2004, Chapter
266 358)
267 **4-9-107**, (Renumbered from 4-9-5.2, as last amended by Laws of Utah 2004, Chapter
268 358)
269 **4-9-108**, (Renumbered from 4-9-5.3, as last amended by Laws of Utah 2004, Chapter
270 358)
271 **4-9-109**, (Renumbered from 4-9-5.4, as last amended by Laws of Utah 2004, Chapter
272 358)
273 **4-9-110**, (Renumbered from 4-9-6, as last amended by Laws of Utah 2004, Chapter
274 358)
275 **4-9-111**, (Renumbered from 4-9-7, as last amended by Laws of Utah 1990, Chapter
276 157)
277 **4-9-112**, (Renumbered from 4-9-8, as enacted by Laws of Utah 1979, Chapter 2)
278 **4-9-113**, (Renumbered from 4-9-9, as last amended by Laws of Utah 1992, Chapter 30)
279 **4-9-114**, (Renumbered from 4-9-10, as enacted by Laws of Utah 1979, Chapter 2)
280 **4-9-115**, (Renumbered from 4-9-11, as last amended by Laws of Utah 1985, Chapter
281 19)

282 **4-9-116**, (Renumbered from 4-9-12, as last amended by Laws of Utah 2004, Chapter
283 358)
284 **4-9-117**, (Renumbered from 4-9-13, as enacted by Laws of Utah 1979, Chapter 2)
285 **4-9-118**, (Renumbered from 4-9-15, as last amended by Laws of Utah 2010, Chapter
286 378)
287 **4-10-101**, (Renumbered from 4-10-1, as enacted by Laws of Utah 1979, Chapter 2)
288 **4-10-102**, (Renumbered from 4-10-2, as last amended by Laws of Utah 2016, Chapter
289 21)
290 **4-10-103**, (Renumbered from 4-10-3, as last amended by Laws of Utah 2008, Chapter
291 382)
292 **4-10-104**, (Renumbered from 4-10-4, as enacted by Laws of Utah 1979, Chapter 2)
293 **4-10-105**, (Renumbered from 4-10-5, as last amended by Laws of Utah 2016, Chapter
294 21)
295 **4-10-106**, (Renumbered from 4-10-6, as last amended by Laws of Utah 2016, Chapter
296 21)
297 **4-10-107**, (Renumbered from 4-10-7, as last amended by Laws of Utah 2016, Chapter
298 21)
299 **4-10-108**, (Renumbered from 4-10-7.3, as enacted by Laws of Utah 2014, Chapter 411)
300 **4-10-109**, (Renumbered from 4-10-8, as enacted by Laws of Utah 1979, Chapter 2)
301 **4-10-110**, (Renumbered from 4-10-9, as enacted by Laws of Utah 1979, Chapter 2)
302 **4-10-111**, (Renumbered from 4-10-10, as last amended by Laws of Utah 2014, Chapter
303 411)
304 **4-10-112**, (Renumbered from 4-10-11, as enacted by Laws of Utah 1979, Chapter 2)
305 **4-10-113**, (Renumbered from 4-10-14, as enacted by Laws of Utah 2016, Chapter 21)
306 **4-11-101**, (Renumbered from 4-11-1, as enacted by Laws of Utah 1979, Chapter 2)
307 **4-11-102**, (Renumbered from 4-11-2, as last amended by Laws of Utah 2014, Chapter
308 411)
309 **4-11-103**, (Renumbered from 4-11-3, as last amended by Laws of Utah 2008, Chapter

310 382)
311 **4-11-104**, (Renumbered from 4-11-4, as last amended by Laws of Utah 2010, Chapter
312 73)
313 **4-11-105**, (Renumbered from 4-11-5, as last amended by Laws of Utah 2016, Chapter
314 348)
315 **4-11-106**, (Renumbered from 4-11-6, as last amended by Laws of Utah 2010, Chapter
316 73)
317 **4-11-107**, (Renumbered from 4-11-7, as last amended by Laws of Utah 2015, Chapter
318 414)
319 **4-11-108**, (Renumbered from 4-11-8, as last amended by Laws of Utah 2010, Chapter
320 73)
321 **4-11-109**, (Renumbered from 4-11-9, as last amended by Laws of Utah 2010, Chapter
322 73)
323 **4-11-110**, (Renumbered from 4-11-10, as last amended by Laws of Utah 2010, Chapter
324 73)
325 **4-11-111**, (Renumbered from 4-11-11, as last amended by Laws of Utah 2010, Chapter
326 73)
327 **4-11-112**, (Renumbered from 4-11-12, as last amended by Laws of Utah 2010, Chapter
328 73)
329 **4-11-113**, (Renumbered from 4-11-13, as last amended by Laws of Utah 2010, Chapter
330 73)
331 **4-11-114**, (Renumbered from 4-11-14, as last amended by Laws of Utah 2010, Chapter
332 73)
333 **4-11-115**, (Renumbered from 4-11-17, as enacted by Laws of Utah 2010, Chapter 73)
334 **4-13-101**, (Renumbered from 4-13-1, as enacted by Laws of Utah 1979, Chapter 2)
335 **4-13-102**, (Renumbered from 4-13-2, as last amended by Laws of Utah 2007, Chapter
336 179)
337 **4-13-103**, (Renumbered from 4-13-3, as last amended by Laws of Utah 1997, Chapter

338 81)
339 4-13-104, (Renumbered from 4-13-4, as last amended by Laws of Utah 2007, Chapter
340 179)
341 4-13-105, (Renumbered from 4-13-5, as enacted by Laws of Utah 1979, Chapter 2)
342 4-13-106, (Renumbered from 4-13-6, as last amended by Laws of Utah 2007, Chapter
343 179)
344 4-13-107, (Renumbered from 4-13-7, as enacted by Laws of Utah 1979, Chapter 2)
345 4-13-108, (Renumbered from 4-13-8, as enacted by Laws of Utah 1979, Chapter 2)
346 4-13-109, (Renumbered from 4-13-9, as enacted by Laws of Utah 1979, Chapter 2)
347 4-14-101, (Renumbered from 4-14-1, as enacted by Laws of Utah 1979, Chapter 2)
348 4-14-102, (Renumbered from 4-14-2, as last amended by Laws of Utah 2007, Chapter
349 370)
350 4-14-103, (Renumbered from 4-14-3, as last amended by Laws of Utah 2014, Chapter
351 411)
352 4-14-104, (Renumbered from 4-14-4, as last amended by Laws of Utah 1981, Chapter
353 3)
354 4-14-105, (Renumbered from 4-14-5, as enacted by Laws of Utah 1979, Chapter 2)
355 4-14-106, (Renumbered from 4-14-6, as last amended by Laws of Utah 2008, Chapter
356 382)
357 4-14-107, (Renumbered from 4-14-7, as enacted by Laws of Utah 1979, Chapter 2)
358 4-14-108, (Renumbered from 4-14-8, as enacted by Laws of Utah 1979, Chapter 2)
359 4-14-109, (Renumbered from 4-14-9, as last amended by Laws of Utah 2007, Chapters
360 179 and 370)
361 4-14-110, (Renumbered from 4-14-12, as last amended by Laws of Utah 2007, Chapter
362 370)
363 4-14-111, (Renumbered from 4-14-13, as last amended by Laws of Utah 2014, Chapter
364 411)
365 4-15-101, (Renumbered from 4-15-1, as enacted by Laws of Utah 1981, Chapter 126)

366 **4-15-102**, (Renumbered from 4-15-1.5, as enacted by Laws of Utah 2014, Chapter 411)
367 **4-15-103**, (Renumbered from 4-15-2, as last amended by Laws of Utah 2014, Chapter
368 411)
369 **4-15-104**, (Renumbered from 4-15-3, as last amended by Laws of Utah 2008, Chapter
370 382)
371 **4-15-105**, (Renumbered from 4-15-4, as enacted by Laws of Utah 1981, Chapter 126)
372 **4-15-106**, (Renumbered from 4-15-5, as last amended by Laws of Utah 2007, Chapter
373 179)
374 **4-15-107**, (Renumbered from 4-15-6, as last amended by Laws of Utah 2007, Chapter
375 179)
376 **4-15-108**, (Renumbered from 4-15-7, as last amended by Laws of Utah 2014, Chapter
377 411)
378 **4-15-109**, (Renumbered from 4-15-8, as enacted by Laws of Utah 1981, Chapter 126)
379 **4-15-110**, (Renumbered from 4-15-9, as enacted by Laws of Utah 1981, Chapter 126)
380 **4-15-111**, (Renumbered from 4-15-10, as last amended by Laws of Utah 2010, Chapter
381 378)
382 **4-15-112**, (Renumbered from 4-15-11, as last amended by Laws of Utah 2014, Chapter
383 411)
384 **4-15-113**, (Renumbered from 4-15-12, as enacted by Laws of Utah 1981, Chapter 126)
385 **4-15-114**, (Renumbered from 4-15-14, as enacted by Laws of Utah 2014, Chapter 411)
386 **4-16-101**, (Renumbered from 4-16-1, as enacted by Laws of Utah 1981, Chapter 126)
387 **4-16-102**, (Renumbered from 4-16-2, as last amended by Laws of Utah 2010, Chapter
388 324)
389 **4-16-103**, (Renumbered from 4-16-3, as last amended by Laws of Utah 2008, Chapter
390 382)
391 **4-16-201**, (Renumbered from 4-16-4, as last amended by Laws of Utah 1999, Chapter
392 237)
393 **4-16-202**, (Renumbered from 4-16-5, as last amended by Laws of Utah 1997, Chapter

394 81)
395 4-16-203, (Renumbered from 4-16-7, as last amended by Laws of Utah 2010, Chapter
396 324)
397 4-16-301, (Renumbered from 4-16-8, as last amended by Laws of Utah 1997, Chapter
398 81)
399 4-16-302, (Renumbered from 4-16-10, as last amended by Laws of Utah 1997, Chapter
400 81)
401 4-16-303, (Renumbered from 4-16-11, as last amended by Laws of Utah 1997, Chapter
402 81)
403 4-16-401, (Renumbered from 4-16-9, as enacted by Laws of Utah 1981, Chapter 126)
404 4-16-501, (Renumbered from 4-16-6, as last amended by Laws of Utah 1997, Chapter
405 81)
406 4-17-101, (Renumbered from 4-17-1, as enacted by Laws of Utah 1981, Chapter 126)
407 4-17-102, (Renumbered from 4-17-2, as last amended by Laws of Utah 1997, Chapter
408 82)
409 4-17-103, (Renumbered from 4-17-3, as last amended by Laws of Utah 1985, Chapter
410 18)
411 4-17-104, (Renumbered from 4-17-3.5, as last amended by Laws of Utah 2013, Chapter
412 461)
413 4-17-105, (Renumbered from 4-17-4, as last amended by Laws of Utah 1993, Chapter
414 227)
415 4-17-106, (Renumbered from 4-17-4.5, as enacted by Laws of Utah 1985, Chapter 18)
416 4-17-107, (Renumbered from 4-17-5, as last amended by Laws of Utah 1993, Chapter
417 227)
418 4-17-108, (Renumbered from 4-17-6, as last amended by Laws of Utah 2007, Chapter
419 179)
420 4-17-109, (Renumbered from 4-17-7, as last amended by Laws of Utah 2010, Chapter
421 378)

422 **4-17-110**, (Renumbered from 4-17-8, as last amended by Laws of Utah 1985, Chapter
423 18)
424 **4-17-111**, (Renumbered from 4-17-8.5, as last amended by Laws of Utah 1993, Chapter
425 227)
426 **4-17-112**, (Renumbered from 4-17-10, as enacted by Laws of Utah 1985, Chapter 18)
427 **4-17-113**, (Renumbered from 4-17-11, as enacted by Laws of Utah 1981, Chapter 126)
428 **4-17-114**, (Renumbered from 4-2-8.7, as last amended by Laws of Utah 2014, Chapter
429 411)
430 **4-17-115**, (Renumbered from 4-2-8.6, as last amended by Laws of Utah 2014, Chapter
431 411)
432 **4-18-202**, (Renumbered from 4-2-8.5, as last amended by Laws of Utah 2014, Chapter
433 411)
434 **4-19-102**, (Renumbered from 4-19-1, as last amended by Laws of Utah 2007, Chapter
435 179)
436 **4-19-103**, (Renumbered from 4-19-2, as last amended by Laws of Utah 2010, Chapter
437 324)
438 **4-19-104**, (Renumbered from 4-19-3, as last amended by Laws of Utah 2007, Chapter
439 179)
440 **4-19-105**, (Renumbered from 4-19-4, as last amended by Laws of Utah 2007, Chapter
441 179)
442 **4-20-101**, (Renumbered from 4-20-1, as last amended by Laws of Utah 2010, Chapter
443 278)
444 **4-20-103**, (Renumbered from 4-20-1.5, as last amended by Laws of Utah 2013, Chapter
445 227)
446 **4-20-104**, (Renumbered from 4-20-1.6, as last amended by Laws of Utah 2011, Chapter
447 336)
448 **4-20-105**, (Renumbered from 4-20-2, as last amended by Laws of Utah 2011, Chapter
449 303)

450 **4-20-106**, (Renumbered from 4-20-3, as last amended by Laws of Utah 2014, Chapter
451 189)
452 **4-20-107**, (Renumbered from 4-20-8, as enacted by Laws of Utah 1979, Chapter 2)
453 **4-20-108**, (Renumbered from 4-20-9, as enacted by Laws of Utah 1979, Chapter 2)
454 **4-20-109**, (Renumbered from 4-20-10, as enacted by Laws of Utah 2011, Chapter 383)
455 **4-22-102**, (Renumbered from 4-22-1, as enacted by Laws of Utah 1979, Chapter 2)
456 **4-22-103**, (Renumbered from 4-22-2, as last amended by Laws of Utah 1999, Chapter
457 301)
458 **4-22-104**, (Renumbered from 4-22-3, as last amended by Laws of Utah 2010, Chapters
459 286 and 378)
460 **4-22-105**, (Renumbered from 4-22-6, as last amended by Laws of Utah 2010, Chapters
461 73 and 378)
462 **4-22-106**, (Renumbered from 4-22-4, as last amended by Laws of Utah 1981, Chapter
463 4)
464 **4-22-107**, (Renumbered from 4-22-4.5, as last amended by Laws of Utah 2008, Chapter
465 382)
466 **4-22-108**, (Renumbered from 4-22-5, as enacted by Laws of Utah 1979, Chapter 2)
467 **4-22-201**, (Renumbered from 4-22-7, as last amended by Laws of Utah 2005, Chapter
468 173)
469 **4-22-202**, (Renumbered from 4-22-8, as last amended by Laws of Utah 2004, Chapter
470 128)
471 **4-22-203**, (Renumbered from 4-22-8.5, as last amended by Laws of Utah 1999, Chapter
472 301)
473 **4-22-301**, (Renumbered from 4-22-9, as enacted by Laws of Utah 1979, Chapter 2)
474 **4-22-302**, (Renumbered from 4-22-9.5, as last amended by Laws of Utah 1995, Chapter
475 20)
476 **4-22-303**, (Renumbered from 4-22-10, as enacted by Laws of Utah 1979, Chapter 2)
477 **4-23-101**, (Renumbered from 4-23-1, as enacted by Laws of Utah 1979, Chapter 2)

478 **4-23-102**, (Renumbered from 4-23-2, as enacted by Laws of Utah 1979, Chapter 2)
479 **4-23-103**, (Renumbered from 4-23-3, as last amended by Laws of Utah 1989, Chapter
480 109)
481 **4-23-104**, (Renumbered from 4-23-4, as last amended by Laws of Utah 2010, Chapters
482 286 and 324)
483 **4-23-105**, (Renumbered from 4-23-5, as last amended by Laws of Utah 2010, Chapter
484 378)
485 **4-23-106**, (Renumbered from 4-23-6, as last amended by Laws of Utah 2010, Chapter
486 378)
487 **4-23-107**, (Renumbered from 4-23-7, as last amended by Laws of Utah 2010, Chapter
488 73)
489 **4-23-108**, (Renumbered from 4-23-7.5, as last amended by Laws of Utah 2009, Chapter
490 17)
491 **4-23-109**, (Renumbered from 4-23-8, as last amended by Laws of Utah 2015, Chapter
492 414)
493 **4-23-110**, (Renumbered from 4-23-10, as enacted by Laws of Utah 1979, Chapter 2)
494 **4-23-111**, (Renumbered from 4-23-11, as last amended by Laws of Utah 1997, Chapter
495 82)
496 **4-24-101**, (Renumbered from 4-24-1, as enacted by Laws of Utah 1979, Chapter 2)
497 **4-24-102**, (Renumbered from 4-24-2, as last amended by Laws of Utah 2010, Chapter
498 378)
499 **4-24-103**, (Renumbered from 4-24-3, as last amended by Laws of Utah 2008, Chapter
500 382)
501 **4-24-104**, (Renumbered from 4-24-4, as last amended by Laws of Utah 2010, Chapters
502 286 and 324)
503 **4-24-105**, (Renumbered from 4-24-30, as last amended by Laws of Utah 1995, Chapter
504 20)
505 **4-24-201**, (Renumbered from 4-24-5, as enacted by Laws of Utah 1979, Chapter 2)

506 **4-24-202**, (Renumbered from 4-24-7, as enacted by Laws of Utah 1979, Chapter 2)
507 **4-24-203**, (Renumbered from 4-24-8, as last amended by Laws of Utah 1985, Chapter
508 130)
509 **4-24-204**, (Renumbered from 4-24-9, as last amended by Laws of Utah 1983, Chapter
510 4)
511 **4-24-205**, (Renumbered from 4-24-10, as last amended by Laws of Utah 2010, Chapter
512 324)
513 **4-24-301**, (Renumbered from 4-24-6, as last amended by Laws of Utah 1988, Chapter
514 42)
515 **4-24-302**, (Renumbered from 4-24-11, as last amended by Laws of Utah 1997, Chapter
516 302)
517 **4-24-303**, (Renumbered from 4-24-12, as last amended by Laws of Utah 2010, Chapter
518 378)
519 **4-24-304**, (Renumbered from 4-24-13, as last amended by Laws of Utah 1997, Chapter
520 302)
521 **4-24-305**, (Renumbered from 4-24-14, as last amended by Laws of Utah 1997, Chapter
522 302)
523 **4-24-306**, (Renumbered from 4-24-15, as last amended by Laws of Utah 1997, Chapter
524 302)
525 **4-24-307**, (Renumbered from 4-24-17, as last amended by Laws of Utah 1997, Chapter
526 302)
527 **4-24-308**, (Renumbered from 4-24-21, as last amended by Laws of Utah 1985, Chapter
528 130)
529 **4-24-309**, (Renumbered from 4-24-16.3, as enacted by Laws of Utah 2015, Chapter
530 161)
531 **4-24-401**, (Renumbered from 4-24-18, as enacted by Laws of Utah 1979, Chapter 2)
532 **4-24-402**, (Renumbered from 4-24-19, as enacted by Laws of Utah 1979, Chapter 2)
533 **4-24-403**, (Renumbered from 4-24-31, as enacted by Laws of Utah 2015, Chapter 161)

534 **4-24-404**, (Renumbered from 4-24-20, as last amended by Laws of Utah 2010, Chapter
535 378)
536 **4-24-405**, (Renumbered from 4-24-22, as last amended by Laws of Utah 1985, Chapter
537 130)
538 **4-24-406**, (Renumbered from 4-24-23, as last amended by Laws of Utah 1985, Chapter
539 130)
540 **4-24-501**, (Renumbered from 4-24-24, as last amended by Laws of Utah 1997, Chapter
541 302)
542 **4-24-502**, (Renumbered from 4-24-25, as enacted by Laws of Utah 1979, Chapter 2)
543 **4-24-503**, (Renumbered from 4-24-26, as enacted by Laws of Utah 1979, Chapter 2)
544 **4-24-504**, (Renumbered from 4-24-28, as last amended by Laws of Utah 1986, Second
545 Special Session, Chapter 10)
546 **4-24-505**, (Renumbered from 4-24-29, as enacted by Laws of Utah 1979, Chapter 2)
547 **4-24-506**, (Renumbered from 4-24-32, as enacted by Laws of Utah 2015, Chapter 161)
548 **4-25-102**, (Renumbered from 4-25-1, as last amended by Laws of Utah 2015, Chapter
549 105)
550 **4-25-103**, (Renumbered from 4-25-2, as last amended by Laws of Utah 1983, Chapter
551 7)
552 **4-25-104**, (Renumbered from 4-25-3, as last amended by Laws of Utah 2008, Chapter
553 382)
554 **4-25-201**, (Renumbered from 4-25-4, as last amended by Laws of Utah 2009, Chapter
555 282)
556 **4-25-202**, (Renumbered from 4-25-5, as last amended by Laws of Utah 2009, Chapter
557 282)
558 **4-25-203**, (Renumbered from 4-25-6, as last amended by Laws of Utah 1983, Chapter
559 7)
560 **4-25-204**, (Renumbered from 4-25-7, as last amended by Laws of Utah 2009, Chapter
561 196)

562 **4-25-205**, (Renumbered from 4-25-8, as last amended by Laws of Utah 2005, Chapter
563 118)
564 **4-25-206**, (Renumbered from 4-25-9, as enacted by Laws of Utah 1979, Chapter 2)
565 **4-25-301**, (Renumbered from 4-25-12, as repealed and reenacted by Laws of Utah
566 2012, Chapter 331)
567 **4-25-302**, (Renumbered from 4-25-12.1, as last amended by Laws of Utah 2015,
568 Chapter 105)
569 **4-25-303**, (Renumbered from 4-25-12.3, as enacted by Laws of Utah 2015, Chapter
570 105)
571 **4-25-401**, (Renumbered from 4-25-14, as last amended by Laws of Utah 2009, Chapter
572 282)
573 **4-30-102**, (Renumbered from 4-30-1, as last amended by Laws of Utah 1999, Chapter
574 298)
575 **4-30-103**, (Renumbered from 4-30-2, as last amended by Laws of Utah 2010, Chapter
576 286)
577 **4-30-104**, (Renumbered from 4-30-3, as last amended by Laws of Utah 2008, Chapter
578 382)
579 **4-30-105**, (Renumbered from 4-30-4, as last amended by Laws of Utah 1999, Chapter
580 298)
581 **4-30-106**, (Renumbered from 4-30-5, as last amended by Laws of Utah 2010, Chapter
582 90)
583 **4-30-107**, (Renumbered from 4-30-6, as last amended by Laws of Utah 2007, Chapter
584 179)
585 **4-30-108**, (Renumbered from 4-30-7, as last amended by Laws of Utah 1999, Chapter
586 298)
587 **4-30-109**, (Renumbered from 4-30-7.5, as enacted by Laws of Utah 1999, Chapter 298)
588 **4-30-110**, (Renumbered from 4-30-7.6, as last amended by Laws of Utah 2010, Chapter
589 378)

590 **4-30-111**, (Renumbered from 4-30-8, as last amended by Laws of Utah 1985, Chapter
591 130)
592 **4-30-112**, (Renumbered from 4-30-9, as last amended by Laws of Utah 1999, Chapter
593 298)
594 **4-32-101**, (Renumbered from 4-32-1, as enacted by Laws of Utah 1979, Chapter 2)
595 **4-32-102**, (Renumbered from 4-32-2, as last amended by Laws of Utah 2010, Chapter
596 242)
597 **4-32-103**, (Renumbered from 4-32-2.1, as enacted by Laws of Utah 2010, Chapter 242)
598 **4-32-104**, (Renumbered from 4-32-2.2, as enacted by Laws of Utah 2010, Chapter 242)
599 **4-32-105**, (Renumbered from 4-32-3, as last amended by Laws of Utah 2016, Chapter
600 18)
601 **4-32-106**, (Renumbered from 4-32-4, as last amended by Laws of Utah 2011, Chapter
602 383)
603 **4-32-107**, (Renumbered from 4-32-5, as last amended by Laws of Utah 2010, Chapter
604 242)
605 **4-32-108**, (Renumbered from 4-32-6, as last amended by Laws of Utah 2010, Chapter
606 242)
607 **4-32-109**, (Renumbered from 4-32-7, as last amended by Laws of Utah 2016, Chapter
608 18)
609 **4-32-110**, (Renumbered from 4-32-8, as last amended by Laws of Utah 2010, Chapter
610 242)
611 **4-32-111**, (Renumbered from 4-32-9, as last amended by Laws of Utah 1997, Chapter
612 296)
613 **4-32-112**, (Renumbered from 4-32-10, as last amended by Laws of Utah 1987, Chapter
614 161)
615 **4-32-113**, (Renumbered from 4-32-11, as last amended by Laws of Utah 2014, Chapter
616 189)
617 **4-32-114**, (Renumbered from 4-32-12, as last amended by Laws of Utah 2010, Chapter

618 242)
619 4-32-115, (Renumbered from 4-32-13, as last amended by Laws of Utah 2010, Chapter
620 242)
621 4-32-116, (Renumbered from 4-32-14, as last amended by Laws of Utah 1997, Chapter
622 289)
623 4-32-117, (Renumbered from 4-32-15, as enacted by Laws of Utah 1979, Chapter 2)
624 4-32-118, (Renumbered from 4-32-16, as last amended by Laws of Utah 2010, Chapters
625 242 and 378)
626 4-32-119, (Renumbered from 4-32-17, as last amended by Laws of Utah 2010, Chapter
627 242)
628 4-32-120, (Renumbered from 4-32-18, as last amended by Laws of Utah 2010, Chapter
629 242)
630 4-32-121, (Renumbered from 4-32-20, as last amended by Laws of Utah 2010, Chapter
631 242)
632 4-32-122, (Renumbered from 4-32-21, as last amended by Laws of Utah 2010, Chapter
633 242)
634 4-32-123, (Renumbered from 4-32-22, as last amended by Laws of Utah 2010, Chapters
635 242 and 378)
636 4-33-101, (Renumbered from 4-33-1, as enacted by Laws of Utah 1981, Chapter 8)
637 4-33-102, (Renumbered from 4-33-2, as enacted by Laws of Utah 1981, Chapter 8)
638 4-33-103, (Renumbered from 4-33-3, as enacted by Laws of Utah 1981, Chapter 8)
639 4-33-104, (Renumbered from 4-33-4, as last amended by Laws of Utah 2008, Chapter
640 382)
641 4-33-105, (Renumbered from 4-33-5, as enacted by Laws of Utah 1981, Chapter 8)
642 4-33-106, (Renumbered from 4-33-6, as enacted by Laws of Utah 1981, Chapter 8)
643 4-33-107, (Renumbered from 4-33-7, as enacted by Laws of Utah 1981, Chapter 8)
644 4-33-108, (Renumbered from 4-33-8, as last amended by Laws of Utah 2002, Chapter
645 9)

646 **4-33-109**, (Renumbered from 4-33-9, as enacted by Laws of Utah 1981, Chapter 8)
647 **4-33-110**, (Renumbered from 4-33-10, as enacted by Laws of Utah 1981, Chapter 8)
648 **4-34-102**, (Renumbered from 4-34-1, as enacted by Laws of Utah 1981, Chapter 70)
649 **4-34-103**, (Renumbered from 4-34-2, as enacted by Laws of Utah 1981, Chapter 70)
650 **4-34-104**, (Renumbered from 4-34-3, as enacted by Laws of Utah 1981, Chapter 70)
651 **4-34-105**, (Renumbered from 4-34-4, as enacted by Laws of Utah 1981, Chapter 70)
652 **4-34-106**, (Renumbered from 4-34-5, as enacted by Laws of Utah 1981, Chapter 70)
653 **4-34-107**, (Renumbered from 4-34-6, as last amended by Laws of Utah 1990, Chapter
654 157)
655 **4-35-101**, (Renumbered from 4-35-1, as enacted by Laws of Utah 1985, Chapter 133)
656 **4-35-102**, (Renumbered from 4-35-2, as last amended by Laws of Utah 1997, Chapter
657 82)
658 **4-35-103**, (Renumbered from 4-35-3, as last amended by Laws of Utah 2010, Chapter
659 286)
660 **4-35-104**, (Renumbered from 4-35-4, as last amended by Laws of Utah 2002, Chapter
661 132)
662 **4-35-105**, (Renumbered from 4-35-5, as enacted by Laws of Utah 1985, Chapter 133)
663 **4-35-106**, (Renumbered from 4-35-6, as last amended by Laws of Utah 2010, Chapter
664 391)
665 **4-35-107**, (Renumbered from 4-35-7, as last amended by Laws of Utah 2010, Chapter
666 378)
667 **4-35-108**, (Renumbered from 4-35-8, as enacted by Laws of Utah 1985, Chapter 133)
668 **4-35-109**, (Renumbered from 4-35-9, as enacted by Laws of Utah 1985, Chapter 133)
669 **4-38-101**, (Renumbered from 4-38-1, as enacted by Laws of Utah 1992, Chapter 296)
670 **4-38-102**, (Renumbered from 4-38-2, as last amended by Laws of Utah 1993, Chapter
671 64)
672 **4-38-103**, (Renumbered from 4-38-3, as last amended by Laws of Utah 2016, Chapter
673 19)

674 **4-38-104**, (Renumbered from 4-38-4, as last amended by Laws of Utah 2008, Chapter
675 382)
676 **4-38-105**, (Renumbered from 4-38-5, as enacted by Laws of Utah 1992, Chapter 296)
677 **4-38-106**, (Renumbered from 4-38-6, as last amended by Laws of Utah 2008, Chapter
678 382)
679 **4-38-201**, (Renumbered from 4-38-7, as last amended by Laws of Utah 2007, Chapter
680 322)
681 **4-38-202**, (Renumbered from 4-38-8, as last amended by Laws of Utah 2010, Chapter
682 324)
683 **4-38-203**, (Renumbered from 4-38-10, as last amended by Laws of Utah 1993, Chapter
684 64)
685 **4-38-301**, (Renumbered from 4-38-9, as last amended by Laws of Utah 1993, Chapters
686 4 and 64)
687 **4-38-302**, (Renumbered from 4-38-11, as enacted by Laws of Utah 1992, Chapter 296)
688 **4-38-303**, (Renumbered from 4-38-12, as enacted by Laws of Utah 1992, Chapter 296)
689 **4-38-304**, (Renumbered from 4-38-15, as enacted by Laws of Utah 1992, Chapter 296)
690 **4-38-401**, (Renumbered from 4-38-13, as enacted by Laws of Utah 1992, Chapter 296)
691 **4-38-402**, (Renumbered from 4-38-16, as enacted by Laws of Utah 1993, Chapter 64)
692 **4-38-501**, (Renumbered from 4-38-14, as last amended by Laws of Utah 2008, Chapter
693 382)
694 REPEALS:
695 **4-11-15**, as last amended by Laws of Utah 2010, Chapter 73
696 **4-18-109**, as enacted by Laws of Utah 2016, Chapter 166
697 **4-25-10**, as enacted by Laws of Utah 1979, Chapter 2
698 **4-25-11**, as repealed and reenacted by Laws of Utah 1988, Chapter 139
699 **4-31-117**, as renumbered and amended by Laws of Utah 2012, Chapter 331
700 **4-36-1**, as enacted by Laws of Utah 1985, Chapter 191
701 **4-36-2**, as enacted by Laws of Utah 1985, Chapter 191

702 **4-36-3**, as last amended by Laws of Utah 1997, Chapter 82

703 **4-36-4**, as last amended by Laws of Utah 1997, Chapter 82

704 **4-36-5**, as enacted by Laws of Utah 1985, Chapter 191

705 **4-36-6**, as enacted by Laws of Utah 1985, Chapter 191

706 **4-36-7**, as enacted by Laws of Utah 1985, Chapter 191

707 **Utah Code Sections Affected by Coordination Clause:**

708 **4-2-16**, Utah Code Annotated 1953

709 **4-2-305**, Utah Code Annotated 1953

710 **4-5-9.5**, as last amended by Laws of Utah 2008, Chapter 382

711 **4-5-501**, Utah Code Annotated 1953

712 **4-10-9**, as enacted by Laws of Utah 1979, Chapter 2

713 **4-10-110**, Utah Code Annotated 1953

714

715 *Be it enacted by the Legislature of the state of Utah:*

716 Section 1. Section **4-1-101**, which is renumbered from Section 4-1-1 is renumbered
717 and amended to read:

718 **TITLE 4. UTAH AGRICULTURAL CODE**

719 **~~[4-1-1].~~ 4-1-101. Title.**

720 This title ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Agricultural Code."

721 Section 2. Section **4-1-102**, which is renumbered from Section 4-1-2 is renumbered
722 and amended to read:

723 **~~[4-1-2].~~ 4-1-102. Construction.**

724 This ~~[code]~~ title shall be liberally construed and applied to promote and ~~[effectuate]~~
725 carry out its policies and purposes.

726 Section 3. Section **4-1-103**, which is renumbered from Section 4-1-3 is renumbered
727 and amended to read:

728 **~~[4-1-3].~~ 4-1-103. Principles of law and equity applicable.**

729 Unless displaced by the particular provisions of this code, the principles of law and

730 equity supplement [its] the provisions of this title.

731 Section 4. Section **4-1-104**, which is renumbered from Section 4-1-3.5 is renumbered
732 and amended to read:

733 **~~[4-1-3.5].~~ 4-1-104. Procedures -- Adjudicative proceedings.**

734 The Department of Agriculture and Food and [its] the department's divisions shall
735 comply with [~~the procedures and requirements of~~] Title 63G, Chapter 4, Administrative
736 Procedures Act, in their adjudicative proceedings.

737 Section 5. Section **4-1-105**, which is renumbered from Section 4-1-4 is renumbered
738 and amended to read:

739 **~~[4-1-4].~~ 4-1-105. Code enforcement -- Inspection authorized --**
740 **Condemnation or seizure -- Injunctive relief -- Costs awarded -- County or district**
741 **attorney to represent state -- Criminal actions -- Witness fee.**

742 (1) To enforce a provision in this title, the department may:

743 (a) enter, at reasonable times, and inspect a public or private premises where an
744 agricultural product is located; and

745 (b) obtain a sample of an agricultural product at no charge to the department, unless
746 otherwise specified in this title.

747 (2) The department may proceed immediately, if admittance is refused, to obtain an ex
748 parte warrant from the nearest court of competent jurisdiction to allow entry to the premises to
749 inspect or obtain a sample.

750 (3) (a) The department is authorized in a court of competent jurisdiction to:

751 (i) seek an order of seizure or condemnation of an agricultural product that violates this
752 title; or

753 (ii) upon proper grounds, obtain a temporary restraining order or temporary or
754 permanent injunction to prevent violation of this title.

755 (b) The court may not require a bond of the department in an injunctive proceeding
756 brought under this section.

757 (4) (a) If the court orders condemnation, the department shall dispose of the

758 agricultural product as the court directs.

759 (b) The court may not order condemnation without giving the claimant of the
760 agricultural product an opportunity to apply to the court for permission to:

761 (i) bring the agricultural product into conformance; or

762 (ii) remove the agricultural product from the state.

763 (5) If the department prevails in an action authorized by Subsection (3)(a), the court
764 shall award court costs, fees, storage, and other costs to the department.

765 (6) (a) Unless otherwise specifically provided by this title, the county attorney of the
766 county in which the product is located or the act is committed shall represent the department in
767 an action commenced under authority of this section.

768 (b) The attorney general shall represent the department in an action to enforce:

769 (i) Chapter 3, Utah Dairy Act; or

770 (ii) Chapter 5, Utah Wholesome Food Act.

771 (7) (a) In a criminal action brought by the department for violation of this title, the
772 county attorney or district attorney in the county in which the alleged criminal activity occurs
773 shall represent the state.

774 (b) Before the department pursues a criminal action, the department shall first give to
775 the person ~~[it]~~ the department intends to have charged:

776 (i) written notice of ~~[its]~~ the department's intent to file criminal charges; and

777 (ii) an opportunity to present, personally or through counsel, the person's views with
778 respect to the contemplated action.

779 (8) A witness subpoenaed by the department for whatever purpose is entitled to:

780 (a) a witness fee for each day of required attendance at a proceeding initiated by the
781 department; and

782 (b) mileage in accordance with the fees and mileage allowed a witness appearing in a
783 district court of this state.

784 Section 6. Section **4-1-106**, which is renumbered from Section 4-1-5 is renumbered
785 and amended to read:

**[4-1-5]. 4-1-106. Suspension or revocation of license or registration --
Judicial review -- Attorney general to represent department.**

(1) If the department has reason to believe that a licensee or registrant is or has engaged in conduct that violates this title, ~~[it]~~ the department shall issue and serve a notice of agency action.

(2) The commissioner, or the hearing officer designated by the commissioner, may suspend or revoke a person's license or registration if the commissioner or hearing officer finds by a preponderance of the evidence that the person is engaging, or has engaged, in conduct that violates this title.

(3) (a) Any person whose registration or license is suspended or revoked under this section may obtain judicial review.

(b) Venue for judicial review of informal adjudicative proceedings is in the district court in the county where the alleged acts giving rise to the suspension or revocation occurred.

(4) The attorney general shall represent the department in any original action or appeal commenced under this section.

Section 7. Section **4-1-107**, which is renumbered from Section 4-1-6 is renumbered and amended to read:

~~[4-1-6]. 4-1-107. Fees and late charges.~~

(1) If an annual registration, license, or other fee is imposed under any chapter of this ~~[code]~~ title, it shall be determined by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2).

(2) If the renewal of the registration or license is conditioned~~[, among other things,]~~ upon the payment of a renewal fee on or before a specified date, the department shall charge and collect the renewal fee and a late fee on any license or registration ~~[which]~~ that is renewed after the date specified for renewal in the applicable chapter.

(3) The renewal fee and late fee shall be determined by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2).

Section 8. Section **4-1-108**, which is renumbered from Section 4-1-7 is renumbered and amended to read:

814 ~~[4-1-7].~~ **4-1-108. Severability clause.**

815 If any provision of this ~~[code]~~ title, or the application of any ~~[such]~~ provision to any
816 person or circumstance, is held invalid, the invalidity does not affect other provisions or
817 applications of this ~~[code which]~~ title that can be given effect without the invalid provision or
818 application, and to this end the provisions of this ~~[code]~~ title are declared to be severable.

819 Section 9. Section **4-1-109**, which is renumbered from Section 4-1-8 is renumbered
820 and amended to read:

821 ~~[4-1-8].~~ **4-1-109. General definitions.**

822 ~~[Subject to additional definitions contained in the chapters of this title which are~~
823 ~~applicable to specific chapters, as]~~

824 As used in this title:

825 ~~[(2)]~~ (1) "Agricultural product" or "product of agriculture" means any product ~~[which]~~
826 that is derived from agriculture, including any product derived from aquaculture as defined in
827 Section **4-37-103**.

828 ~~[(1)]~~ (2) "Agriculture" means the science and art of the production of plants and
829 animals useful to man, including the preparation of plants and animals for human use and
830 disposal by marketing or otherwise.

831 (3) "Commissioner" means the commissioner of agriculture and food.

832 (4) "Department" means the Department of Agriculture and Food created in Chapter 2,
833 Department - State Chemist - Enforcement.

834 (5) "Dietary supplement" ~~[has the meaning]~~ means the same as that term is defined in
835 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

836 (6) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated
837 elk as defined in Section **4-39-102**, or any other domestic animal or domestic furbearer raised
838 or kept for profit.

839 (7) "Organization" means a corporation, government or governmental subdivision or
840 agency, business trust, estate, trust, partnership, association, two or more persons having a joint
841 or common interest, or any other legal entity.

(8) "Person" means a natural person or individual, corporation, organization, or other legal entity.

Section 10. Section **4-1-110**, which is renumbered from Section 4-1-9 is renumbered and amended to read:

[4-1-9]. 4-1-110. Growing or storing food for personal or family use.

(1) As used in this section, "family food" means food owned by an individual that is intended for the individual's consumption, or for consumption by members of the individual's immediate family, that:

- (a) is legal for human consumption;
- (b) is lawfully possessed; and
- (c) poses no risk:
 - (i) to health;
 - (ii) of spreading insect infestation; or
 - (iii) of spreading agricultural disease.

(2) Family food that is grown by an individual on the individual's property is not subject to local or federal regulation if growth of the family food:

- (a) does not negatively impact the rights of adjoining property owners; and
- (b) complies with the food safety requirements of this title.

(3) A government entity may not confiscate family food described in Subsection (2) or family food that is stored by the owner in the owner's home or dwelling.

(4) (a) If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this section shall be given effect without the invalid provision or application.

(b) The provisions of this section are severable.

Section 11. Section **4-2-101** is enacted to read:

CHAPTER 2. ADMINISTRATION

Part 1. Organization

4-2-101. Title.

This chapter is known as "Administration."

Section 12. Section **4-2-102**, which is renumbered from Section 4-2-1 is renumbered and amended to read:

[4-2-1]. 4-2-102. Department created.

(1) There is ~~[hereby]~~ created within state government the Department of Agriculture and Food ~~[which]~~.

(2) The department created in Subsection (1) is responsible ~~[in this state]~~ for the administration and enforcement of all laws, services, functions, and consumer programs related to agriculture in this state as assigned to the department by the Legislature.

Section 13. Section **4-2-103**, which is renumbered from Section 4-2-2 is renumbered and amended to read:

[4-2-2]. 4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and ~~[its]~~ allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

898 (iii) only promote and not restrict or restrain the marketing of Utah agricultural
899 commodities;

900 (f) administer and enforce all laws assigned to the department by the Legislature;

901 (g) establish standards and grades for agricultural products and fix and collect
902 reasonable fees for services performed by the department in conjunction with the grading of
903 agricultural products;

904 (h) establish operational standards for any establishment that manufactures, processes,
905 produces, distributes, stores, sells, or offers for sale any agricultural product;

906 (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
907 rules necessary for the effective administration of the agricultural laws of the state;

908 (j) when necessary, make investigations, subpoena witnesses and records, conduct
909 hearings, issue orders, and make recommendations concerning all matters related to
910 agriculture;

911 (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any
912 private or public place that may become infested or infected with harmful insects, plant
913 diseases, noxious or poisonous weeds, or other agricultural pests;

914 (ii) establish and enforce quarantines;

915 (iii) issue and enforce orders and rules for the control and eradication of pests,
916 wherever they may exist within the state; and

917 (iv) perform other duties relating to plants and plant products considered advisable and
918 not contrary to law;

919 (l) inspect apiaries for diseases inimical to bees and beekeeping;

920 (m) take charge of any agricultural exhibit within the state, if considered necessary by
921 the department, and award premiums at that exhibit;

922 (n) assist the Conservation Commission in the administration of Title 4, Chapter 18,
923 Conservation Commission Act, and administer and disburse any funds available to assist
924 conservation districts in the state in the conservation of the state's soil and water resources;

925 (o) participate in the United States Department of Agriculture certified agricultural

926 mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

927 (p) promote and support the multiple use of public lands; and

928 (q) perform any additional functions, powers, and duties provided by law.

929 (2) The department, by following the procedures and requirements of Section

930 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

931 (3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:

932 (i) the department gives notice of the proposed order to the producers and handlers of

933 the affected product;

934 (ii) the commissioner conducts a hearing on the proposed order; and

935 (iii) at least 50% of the registered producers and handlers of the affected products vote

936 in favor of the proposed order.

937 (b) (i) The department may establish boards of control to administer marketing orders

938 and the proceeds derived from any order.

939 (ii) ~~[The]~~ A board of control shall:

940 (A) ensure that all proceeds are placed in an account in the board of control's name in a

941 depository institution; and

942 (B) ensure that the account is annually audited by an accountant approved by the

943 commissioner.

944 (4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be

945 deposited ~~[in]~~ into the General Fund as dedicated credits for the grain grading program.

946 (5) In fulfilling its duties in this chapter, the department may:

947 (a) purchase, as authorized or required by law, services that the department is

948 responsible to provide for legally eligible persons;

949 (b) take necessary steps, including legal action, to recover money or the monetary value

950 of services provided to a recipient who is not eligible;

951 (c) examine and audit the expenditures of any public funds provided to a local

952 authority, agency, or organization that contracts with or receives funds from those authorities or

953 agencies; and

(d) accept and administer grants from the federal government and from other sources, public or private.

Section 14. Section **4-2-104**, which is renumbered from Section 4-2-3 is renumbered and amended to read:

[4-2-3]. 4-2-104. Administration by commissioner.

(1) Administration of the department is under the direction, control, and management of a commissioner appointed by the governor with the consent of the Senate.

(2) The commissioner shall serve at the pleasure of the governor.

(3) The governor shall establish the commissioner's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 15. Section **4-2-105**, which is renumbered from Section 4-2-4 is renumbered and amended to read:

[4-2-4]. 4-2-105. Organization of divisions within department.

The commissioner shall organize the department into divisions, as necessary, for the efficient administration of the department's business.

Section 16. Section **4-2-106**, which is renumbered from Section 4-2-5 is renumbered and amended to read:

[4-2-5]. 4-2-106. Submission of department's budget.

(1) The commissioner, [on or before October 1 of each year] upon request of the governor, shall submit an itemized budget for the department to the governor.

(2) The proposed budget described in Subsection (1) shall:

(a) contain a complete plan of proposed expenditures and estimated revenues for the ensuing fiscal year; and ~~[shall]~~

(b) be accompanied by a statement setting forth the revenues and expenditures for the fiscal year next preceding~~[-]~~ and the current assets and liabilities of the department, including restricted revenue accounts and dedicated credits.

Section 17. Section **4-2-107**, which is renumbered from Section 4-2-6 is renumbered and amended to read:

982 ~~[4-2-6].~~ **4-2-107. Official seal -- Authentication of records.**

983 (1) The department shall adopt and use an official seal, a description and impression of
984 which shall be filed with the Division of Archives.

985 (2) Copies of official department records, documents, and proceedings may be
986 authenticated with the seal attested by the commissioner.

987 Section 18. Section **4-2-108**, which is renumbered from Section 4-2-7 is renumbered
988 and amended to read:

989 ~~[4-2-7].~~ **4-2-108. Agricultural Advisory Board created -- Composition --**
990 **Responsibility -- Terms of office -- Compensation.**

991 (1) There is created the Agricultural Advisory Board composed of 21 members, with
992 each member representing one of the following:

993 (a) Utah Farm Bureau Federation;

994 (b) Utah Farmers Union;

995 (c) Utah Cattlemen's Association;

996 (d) Utah Wool Growers^[?] Association;

997 (e) Utah Dairymen's Association;

998 (f) Utah Pork [~~Producers~~] Producers Association;

999 (g) egg and poultry producers;

1000 (h) Utah Veterinary Medical Association;

1001 (i) Livestock Auction Marketing Association;

1002 (j) Utah Association of Conservation Districts;

1003 (k) the Utah horse industry;

1004 (l) the food processing industry;

1005 (m) the fruit and vegetable industry;

1006 (n) the turkey industry;

1007 (o) manufacturers of food supplements;

1008 (p) a consumer affairs group;

1009 (q) dean of the College of Agriculture and Applied Science and vice president of

1010 extension from Utah State University;

1011 (r) urban and small farmers;

1012 (s) Utah Elk Breeders Association;

1013 (t) Utah Beekeepers Association; and

1014 (u) Utah Fur Breeders Association.

1015 (2) (a) The Agricultural Advisory Board shall advise the commissioner regarding:

1016 (i) the planning, implementation, and administration of the department's programs; and

1017 (ii) the establishment of standards governing the care of livestock and poultry,

1018 including consideration of:

1019 (A) food safety;

1020 (B) local availability and affordability of food; and

1021 (C) acceptable practices for livestock and farm management.

1022 (b) The Agricultural Advisory Board shall fulfill the duties described in Title 4,

1023 Chapter 2, Part 5, Horse Tripping Awareness.

1024 (3) (a) Except as required by Subsection (3)(c), members are appointed by the

1025 commissioner to four-year terms of office.

1026 (b) The commissioner shall appoint representatives of the organizations cited in

1027 Subsections (1)(a) through (h) to the Agricultural Advisory Board from a list of nominees

1028 submitted by each organization.

1029 (c) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at

1030 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of

1031 board members are staggered so that approximately half of the board is appointed every two

1032 years.

1033 (d) Members may be removed at the discretion of the commissioner upon the request

1034 of the group they represent.

1035 (e) When a vacancy occurs in the membership for any reason, the replacement shall be

1036 appointed for the unexpired term.

1037 (4) The board shall elect one member to serve as chair of the Agricultural Advisory

1038 Board for a term of one year.

1039 (5) (a) The board shall meet four times annually, but may meet more often at the
1040 discretion of the chair.

1041 (b) Attendance of 11 members at a duly called meeting constitutes a quorum for the
1042 transaction of official business.

1043 (6) A member may not receive compensation or benefits for the member's service, but
1044 may receive per diem and travel expenses in accordance with:

1045 (a) Section 63A-3-106;

1046 (b) Section 63A-3-107; and

1047 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1048 63A-3-107.

1049 Section 19. Section 4-2-109, which is renumbered from Section 4-2-8 is renumbered
1050 and amended to read:

1051 ~~[4-2-8].~~ **4-2-109. Temporary advisory committees -- Appointment --**
1052 **Compensation.**

1053 (1) The commissioner, with the permission of the governor, may appoint other
1054 advisory committees on a temporary basis to offer technical advice to the department.

1055 (2) A member of a committee serves at the pleasure of the commissioner.

1056 (3) A member may not receive compensation or benefits for the member's service, but
1057 may receive per diem and travel expenses in accordance with:

1058 (a) Section 63A-3-106;

1059 (b) Section 63A-3-107; and

1060 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1061 63A-3-107.

1062 Section 20. Section 4-2-201, which is renumbered from Section 4-2-9 is renumbered
1063 and amended to read:

1064 **Part 2. State Chemist**

1065 ~~[4-2-9].~~ **4-2-201. Appointment of the state chemist.**

The commissioner shall appoint a state chemist [~~shall be appointed by the commissioner~~].

Section 21. Section **4-2-202**, which is renumbered from Section 4-2-10 is renumbered and amended to read:

~~[4-2-10].~~ 4-2-202. State chemist responsibilities.

(1) The state chemist shall:

(a) serve as the chief administrative officer of the Division of Laboratories; and

(b) supervise and administer all analytical tests required to be performed under this title or under any rule [~~authorized by it~~] adopted under this title.

(2) The state chemist may perform analytical tests for other state agencies, federal agencies, units of local government, and private persons if:

(a) the tests and analytical work do not interfere with, or impede, the work required by the department; and

(b) a charge commensurate with the work involved is made and collected.

(3) The state chemist shall perform any other official duties assigned by the commissioner.

Section 22. Section **4-2-301**, which is renumbered from Section 4-2-11 is renumbered and amended to read:

Part 3. Enforcement and Penalties

~~[4-2-11].~~ 4-2-301. Attorney general legal advisor for department -- County or district attorney may bring action upon request of department for violations of title.

(1) The attorney general is the legal advisor for the department and shall defend the department and [~~its~~] the department's representatives in all actions and proceedings brought against [~~it~~] the department.

(2) (a) The county attorney or the district attorney, as provided under Sections 17-18a-202 and 17-18a-203, of the county in which a cause of action arises or a public offense occurs may bring civil or criminal action, upon request of the department, to enforce the laws, standards, orders, and rules of the department or to prosecute violations of this title.

(b) If the county attorney or district attorney fails to act, the department may request the attorney general to bring an action on behalf of the department.

Section 23. Section **4-2-302**, which is renumbered from Section 4-2-12 is renumbered and amended to read:

~~[4-2-12]~~. **4-2-302. Notice of violation -- Order for corrective action.**

(1) Whenever the department determines that any person, or any officer or employee of any person, is violating any requirement of this title or rules adopted under this title, the department shall serve written notice upon the alleged violator ~~[which]~~ that specifies the violation and alleges the facts constituting the violation.

(2) After serving notice as required in Subsection (1), the department may:

(a) issue an order for necessary corrective action; and

(b) request the attorney general ~~[or the]~~, county attorney, or ~~[the]~~ district attorney to seek injunctive relief and enforcement of the order as provided in Subsection ~~[4-2-11]~~ 4-2-301(2).

Section 24. Section **4-2-303**, which is renumbered from Section 4-2-14 is renumbered and amended to read:

~~[4-2-14]~~. **4-2-303. Violations of title unlawful.**

It is unlawful for any person, or the ~~[officers or employees]~~ officer or employee of any person, to willfully violate, disobey, or disregard this title or any notice or order issued under this title.

Section 25. Section **4-2-304**, which is renumbered from Section 4-2-15 is renumbered and amended to read:

~~[4-2-15]~~. **4-2-304. Civil and criminal penalties -- Costs -- Civil liability.**

(1) (a) Except as otherwise provided by this title, any person, or the ~~[officers or employees]~~ officer or employee of any person, who violates this title or any lawful notice or order issued pursuant to this title shall be assessed a penalty not to exceed \$5,000 per violation in a civil proceeding, and is guilty of a class B misdemeanor in a criminal proceeding ~~[is guilty of a class B misdemeanor]~~.

(b) A subsequent criminal violation within two years is a class A misdemeanor.

(2) Any person, or the ~~[officers or employees]~~ officer or employee of any person, shall be liable for any expenses incurred by the department in abating any violation of this title.

(3) A penalty assessment or criminal conviction under this title does not relieve the person assessed or convicted from civil liability for claims arising out of any act ~~[which]~~ that was also a violation.

Section 26. Section **4-2-401** is amended to read:

Part 4. State Veterinarian

4-2-401. Appointment.

The commissioner shall appoint a state veterinarian ~~[shall be appointed by the commissioner]~~.

Section 27. Section **4-2-402** is amended to read:

4-2-402. State veterinarian responsibilities.

(1) The state veterinarian shall:

(a) coordinate the department's responsibilities for:

(i) the promotion of animal health; and

(ii) the diagnosis, surveillance, and prevention of animal disease~~[-and]~~.

~~[(iii) livestock brand registration and inspection;]~~

(b) aid the meat inspection manager, whose duties are specified by the commissioner, in the direction of the inspection of meat and poultry; and

(c) perform other official duties assigned by the commissioner.

(2) The state veterinarian may not receive compensation for services provided while engaging in the private practice of veterinary medicine.

(3) The state veterinarian shall be a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 28. Section **4-2-502** is amended to read:

4-2-502. Definitions.

As used in this part:

1150 (1) "Board" means the Agricultural Advisory Board created in Section [~~4-2-7~~] [4-2-108](#).

1151 (2) "Horse event" means an event in which horses are roped or tripped for the purpose
1152 of a specific event or contest.

1153 (3) (a) "Horse tripping" means the lassoing or roping of the legs of an equine, or
1154 otherwise tripping or causing an equine to fall by any means, for the purpose of entertainment,
1155 sport, or contest, or practice for entertainment, sport, or contest.

1156 (b) "Horse tripping" does not include accepted animal husbandry practices, customary
1157 farming practices, or commonly accepted practices occurring in conjunction with a sanctioned
1158 rodeo, animal race, or pulling contest.

1159 Section 29. Section **4-2-503** is amended to read:

1160 **4-2-503. Event reporting requirements.**

1161 (1) The owner of a venue holding a horse event shall:

1162 (a) at least 30 days before the day on which the horse event is to be held, notify the
1163 board of the date, time, and name of the horse event; and

1164 (b) no later than 30 days after the day on which the horse event is held, notify the board
1165 of:

1166 (i) the number and type of competitions held at the horse event;

1167 (ii) the number of horses used;

1168 (iii) whether horse tripping occurred, and if so how many horses were used in horse
1169 tripping and how many times each horse was tripped; and

1170 (iv) whether a veterinarian was called during the horse event, and if so:

1171 (A) the name and contact information of the veterinarian;

1172 (B) the outcome of the veterinarian's examination of a horse; and

1173 (C) all veterinarian charges incurred.

1174 (2) (a) The department shall compile all reports received pursuant to Subsection (1)
1175 and provide the information to the board.

1176 (b) The board shall, at a meeting described in Subsection [~~4-2-7~~] [4-2-108](#)(5)(a):

1177 (i) review the information described in Subsection (2)(a); and

(ii) if necessary, make recommendations for rules or legislation designed to prohibit horse tripping.

(3) The department shall fine the owner of a venue that fails to fulfill the duties described in Subsection (1) \$500 per violation.

(4) The department, in consultation with the board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to enforce this part.

Section 30. Section **4-2-504** is amended to read:

4-2-504. Horse tripping education -- Reporting requirements.

~~[(+)]~~ The department, in conjunction with the board, shall:

~~[(a)]~~ (1) send a letter, annually, to venues that host horse events:

~~[(i)]~~ (a) outlining the reporting requirements of Section **4-2-503**; and

~~[(ii)]~~ (b) providing educational information on the negative effects of horse tripping;

and

~~[(b)]~~ (2) promote, as funding allows, policies regarding the safety and welfare of horses involved in horse events, such as horse roping and horse tripping.

~~[(2) The department and the board shall, by November 30, 2015, report to the Natural Resources, Agriculture, and Environment Interim Committee about:]~~

~~[(a) reported incidents of horse tripping:]~~

~~[(b) any recommendations made by the board pursuant to Subsection **4-2-503**(2)(b); and]~~

~~[(c) the progress made in educating the public under Subsection (1).]~~

Section 31. Section **4-3-101** is enacted to read:

CHAPTER 3. UTAH DAIRY ACT

Part 1. Organization

4-3-101. Title.

This chapter is known as the "Utah Dairy Act."

Section 32. Section **4-3-102**, which is renumbered from Section 4-3-1 is renumbered and amended to read:

- 1206 ~~[4-3-1].~~ **4-3-102. Definitions.**
- 1207 As used in this chapter:
- 1208 (1) "Adulterated" means any dairy product that:
- 1209 (a) contains any poisonous or deleterious substance that may render it injurious to
- 1210 health;
- 1211 (b) has been produced, prepared, packaged, or held:
- 1212 (i) under unsanitary conditions;
- 1213 (ii) where it may have become contaminated; or
- 1214 (iii) where it may have become diseased or injurious to health;
- 1215 (c) contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;
- 1216 (d) contains:
- 1217 (i) any filthy, putrid, or decomposed substance;
- 1218 (ii) fresh fluid milk with a lactic acid level at or above .0018; or
- 1219 (iii) cream with a lactic acid level at or above .008 or that is otherwise unfit for human
- 1220 food;
- 1221 (e) is the product of:
- 1222 (i) a diseased animal;
- 1223 (ii) an animal that died otherwise than by slaughter; or
- 1224 (iii) an animal fed upon uncooked offal;
- 1225 (f) has intentionally been subjected to radiation, unless the use of the radiation is in
- 1226 conformity with a rule or exemption promulgated by the department; or
- 1227 (g) (i) has any valuable constituent omitted or abstracted;
- 1228 (ii) has any substance substituted in whole or in part;
- 1229 (iii) has damage or inferiority concealed in any manner; or
- 1230 (iv) has any substance added, mixed, or packed with the product to:
- 1231 (A) increase its bulk or weight;
- 1232 (B) reduce its quality or strength; or
- 1233 (C) make it appear better or of greater value.

1234 (2) "Cow-share program" means a program in which a person acquires an undivided
1235 interest in a milk producing hoofed mammal through an agreement with a producer that
1236 includes:

1237 (a) a bill of sale for an interest in the mammal;

1238 (b) a boarding arrangement under which the person boards the mammal with the
1239 producer for the care and milking of the mammal and the boarding arrangement and bill of sale
1240 documents remain with the program operator;

1241 (c) an arrangement under which the person receives raw milk for personal use not to be
1242 sold or distributed in a retail environment or for profit; and

1243 (d) no more than two cows, 10 goats, and 10 sheep per farm in the program.

1244 (3) "Dairy product" means any product derived from raw or pasteurized milk.

1245 (4) "Distributor" means any person who distributes a dairy product.

1246 (5) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed,
1247 evaporated, concentrated, powdered, dried, or desiccated, that has fat or oil other than milk fat
1248 added, blended, or compounded with it so that the resultant product is an imitation or
1249 semblance of milk, cream, or skimmed milk.

1250 (b) "Filled milk" does not include any distinctive proprietary food compound:

1251 (i) that is prepared and designated for feeding infants and young children, which is
1252 customarily used upon the order of a licensed physician;

1253 (ii) whose product name and label does not contain the word "milk"; and

1254 (iii) whose label conforms with the food labeling requirements.

1255 (6) "Frozen dairy products" mean dairy products normally served to the consumer in a
1256 frozen or semifrozen state.

1257 (7) "Grade A milk," "grade A milk products," and "milk" have the same meaning that
1258 is accorded the terms in the federal standards for grade A milk and grade A milk products
1259 unless modified by rules of the department.

1260 (8) "License" means a document allowing a person or plant to process, manufacture,
1261 supply, test, haul, or pasteurize milk or milk products or conduct other activity specified by the

1262 license.

1263 (9) "Manufacturer" means any person who processes milk in a way that changes the
1264 milk's character.

1265 (10) "Manufacturing milk" means milk used in the production of non-grade A dairy
1266 products.

1267 (11) "Misbranded" means:

1268 (a) any dairy product whose label is false or misleading in any particular, or whose
1269 label or package fails to conform to any federal regulation adopted by the department that
1270 pertains to packaging and labeling;

1271 (b) any dairy product in final packaged form manufactured in this state that does not
1272 bear:

1273 (i) the manufacturer's, packer's, or distributor's name, address, and plant number, if
1274 applicable;

1275 (ii) a clear statement of the product's common or usual name, quantity, and ingredients,
1276 if applicable; and

1277 (iii) any other information required by rule of the department;

1278 (c) any butter in consumer package form that is not at least B grade, or that does not
1279 meet the grade claimed on the package, measured by U.S.D.A. butter grade standards;

1280 (d) any imitation butter made in whole or in part from material other than wholesome
1281 milk or cream, except clearly labeled "margarine";

1282 (e) renovated butter unless the words "renovated butter," in letters not less than
1283 1/2-inch in height appear on each package, roll, square, or container of such butter; or

1284 (f) any dairy product in final packaged form that makes nutritional claims or adds or
1285 adjusts nutrients that are not so labeled.

1286 (12) "Pasteurization" means any process that renders dairy products practically free of
1287 disease organisms and is accepted by federal standards.

1288 (13) "Permit or certificate" means a document allowing a person to market milk.

1289 (14) "Plant" means any facility where milk is processed or manufactured.

1290 (15) "Processor" means any person who subjects milk to a process.

1291 (16) "Producer" means a person who owns a cow or other milk producing hoofed
1292 mammal that produces milk for consumption by persons other than the producer's family,
1293 employees, or nonpaying guests.

1294 (17) "Raw milk" means unpasteurized milk.

1295 (18) "Renovated butter" means butter that is reduced to a liquid state by melting and
1296 drawing off such liquid or butter oil and churning or otherwise manipulating it in connection
1297 with milk or any product of milk.

1298 (19) "Retailer" means any person who sells or distributes dairy products directly to the
1299 consumer.

1300 Section 33. Section **4-3-201**, which is renumbered from Section 4-3-2 is renumbered
1301 and amended to read:

1302 **Part 2. Rules and Regulations**

1303 **~~[4-3-2].~~ 4-3-201. Title -- Authority to make and enforce rules.**

1304 The department is authorized and directed, subject to Title 63G, Chapter 3, Utah
1305 Administrative Rulemaking Act, to make and enforce ~~[such]~~ rules ~~[as may in its judgment and~~
1306 ~~discretion be necessary]~~ to carry out the purposes of this chapter.

1307 Section 34. Section **4-3-202**, which is renumbered from Section 4-3-3 is renumbered
1308 and amended to read:

1309 **~~[4-3-3].~~ 4-3-202. Authority in local jurisdictions to regulate dairy products**
1310 **-- Department standards to govern -- Department evaluation permitted -- Local notice to**
1311 **cease inspection.**

1312 (1) While nothing in this chapter shall impair the authority of any town, city, or county
1313 to regulate the production, handling, storage, distribution, or sale of dairy products, frozen
1314 dairy products, grade A milk, grade A milk products, or milk, within their respective
1315 jurisdictions, a common standard as prescribed by the department shall be followed in such
1316 jurisdictions.

1317 (2) If a town, city, or county elects to enforce this chapter, the department shall accept

its findings relative to inspections in lieu of making its own inspections, but the department may evaluate the effectiveness of any local inspection program.

(3) If a town, city, or county intends to cease making inspections under this chapter, it shall notify the department of its intent to cease inspection at least one year in advance of the actual cessation of inspection.

(4) Upon request, the commissioner shall cooperate with other state agencies, towns, cities, counties, and federal authorities in the administration and enforcement of this chapter.

Section 35. Section **4-3-203**, which is renumbered from Section 4-3-4 is renumbered and amended to read:

~~4-3-4~~. 4-3-203. Authority to inspect premises.

(1) The department may inspect any premises where dairy products are produced, manufactured, processed, stored, or held for distribution, at reasonable times and places, to determine whether the premises are in compliance with this chapter and the rules adopted according to it.

(2) If the department is denied access, it may proceed immediately to the nearest court of competent jurisdiction to seek an ex parte warrant or its equivalent to permit inspection of the premises.

Section 36. Section **4-3-204**, which is renumbered from Section 4-3-5 is renumbered and amended to read:

~~4-3-5~~. 4-3-204. Authority to collect samples -- Receipt -- Names of distributors.

(1) Samples of dairy products from each dairy farm or processing plant may be secured and examined as often as deemed necessary by the department.

(2) Samples of dairy products from stores, cafes, soda fountains, restaurants, and other places where dairy products are sold may be secured and examined as often as deemed necessary by the department.

(3) Samples of milk or dairy products may be taken by the department at any time before final delivery to the consumer.

(4) The department shall provide a signed receipt for all samples taken showing the date of sampling and the amount and kind of sample taken; provided, that the department is not liable to any person for the cost of any sample taken.

(5) All proprietors of stores, cafes, restaurants, soda fountains, and other similar places shall furnish the department, upon request, with the names of all distributors from whom dairy products are obtained.

Section 37. Section **4-3-205**, which is renumbered from Section 4-3-6 is renumbered and amended to read:

~~[4-3-6].~~ 4-3-205. Condemnation, embargo, denaturization of unfit milk or dairy products -- Unfit equipment.

(1) The department may condemn or embargo any milk or dairy product which is adulterated, misbranded, or not produced or processed in accordance with this chapter.

(2) The department may condemn the use of any equipment, tank, or container used to produce, process, manufacture, or transport milk or dairy products that it finds, upon inspection, to be unclean or contaminated.

(3) The department may mark or tag any condemned equipment, tank, or container with the words "this (equipment, tank, or container) is unfit to contain human food."

(4) Condemned milk shall be decharacterized or denatured with harmless coloring or rennet by the department.

Section 38. Section **4-3-206**, which is renumbered from Section 4-3-7 is renumbered and amended to read:

~~[4-3-7].~~ 4-3-206. Testing and measuring milk -- Standards prescribed -- Milk quality work in accordance with rules.

(1) Milk shall be tested and measured in accordance with:

(a) the latest edition of "Association of Official Analytical Chemists";

(b) the latest edition of "Standard Methods for Examination of Dairy Products";

(c) other publications accepted by the department; or

(d) methods prescribed by the department.

(2) A processor or manufacturer shall perform quality work in accordance with the rules adopted by the department.

Section 39. Section **4-3-301**, which is renumbered from Section 4-3-8 is renumbered and amended to read:

Part 3. Licensing Permits

~~[4-3-8]~~. **4-3-301. Licenses and permits -- Application -- Fee -- Expiration -- Renewal.**

(1) Application for a license to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products shall be made to the department upon forms prescribed and furnished by it.

(2) Upon receipt of a proper application, compliance with all applicable rules, and payment of a license fee determined by the department according to Subsection ~~[4-2-2]~~ 4-2-103(2), the commissioner, if satisfied that the public convenience and necessity and the industry will be served, shall issue an appropriate license to the applicant subject to suspension or revocation for cause.

(3) Each license issued under this section expires at midnight on December 31 of each year.

(4) A license to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is renewable for a period of one year upon the payment of an annual license renewal fee determined by the department according to Subsection ~~[4-2-2]~~ 4-2-103(2) on or before December 31 of each year.

(5) Application for a permit or certificate to produce milk shall be made to the department on forms prescribed and furnished by it.

(6) (a) Upon receipt of a proper application and compliance with all applicable rules, the commissioner shall issue a permit entitling the applicant to engage in the business of producer, subject to suspension or revocation for cause.

(b) No fee may be charged by the department for issuance of a permit or certificate.

Section 40. Section **4-3-302**, which is renumbered from Section 4-3-9 is renumbered

1402 and amended to read:

1403 ~~[4-3-9]~~. **4-3-302. Licenses, permits, and certificates -- Suspension or**
1404 **revocation -- Grounds.**

1405 (1) The department may revoke or suspend the license, permit, or certification of any
1406 person who violates this chapter or any rule enacted under the authority of this chapter.

1407 (2) All or part of any license, permit, or certification may be suspended immediately if
1408 an emergency exists that presents a clear and present danger to the public health, or if
1409 inspection or sampling is refused.

1410 Section 41. Section ~~4-3-401~~, which is renumbered from Section 4-3-10 is renumbered
1411 and amended to read:

1412 **Part 4. Unlawful Acts**

1413 ~~[4-3-10]~~. **4-3-401. Unlawful acts specified.**

1414 It is unlawful for any person in this state to:

1415 (1) operate a plant without a license issued by the department;

1416 (2) market milk without a permit or certificate issued by the department;

1417 (3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk
1418 in bulk without a special license to perform the particular activity designated in this Subsection
1419 (3); unless if more than one person working in a plant is engaged in the performance of a single
1420 activity designated in this Subsection (3), the person who directs the activity is licensed;

1421 (4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or
1422 misbranded dairy product;

1423 (5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product
1424 without a license, permit, or certificate required by this chapter;

1425 (6) sell or offer for sale any milk not intended for human consumption unless it is
1426 denatured or decharacterized in accordance with the rules of the department;

1427 (7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a
1428 dairy product;

1429 (8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious

1430 diseases communicable to humans in any place where they may come in contact with cows or
1431 other milking animals;

1432 (9) draw milk for human food from cows or other milking animals that are infected
1433 with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that
1434 will produce milk that is adulterated;

1435 (10) accept or process milk from any producer without verification that the producer
1436 holds a valid permit or certification or, if milk is accepted from out of the state, without
1437 verification that the producer holds a permit or certification from the appropriate regulatory
1438 agency of that state;

1439 (11) use any contaminated or unclean equipment or container to process, manufacture,
1440 distribute, deliver, or sell a dairy product;

1441 (12) remove, change, conceal, erase, or obliterate any mark or tag placed upon any
1442 equipment, tank, or container by the department except to clean and sanitize it;

1443 (13) use any tank or container used for the transportation of milk or other dairy
1444 products that is unclean or contaminated;

1445 (14) refuse to allow the department to take samples for testing; or

1446 (15) prohibit adding vitamin compounds in the processing of milk and dairy products
1447 in accordance with rules of the department.

1448 Section 42. Section **4-3-402**, which is renumbered from Section 4-3-11 is renumbered
1449 and amended to read:

1450 **~~[4-3-11].~~ 4-3-402. Processors, manufacturers, or distributors -- Unlawful to**
1451 **give money, equipment, or fixtures to retailer or consumer -- Exceptions -- Shelf space for**
1452 **dairy products.**

1453 (1) As used in this section:

1454 (a) "liquid dairy product" means a milk container which contains a pint of milk or less;
1455 and

1456 (b) "novelty ice cream" means a package or container of ice cream which contains
1457 eight fluid ounces or less.

- 1458 (2) Except as provided in Subsections (3) and (4), no processor, manufacturer,
1459 distributor, or his affiliates, subsidiaries, associates, agents or stockholders shall furnish,
1460 service, repair, give, lease, sell, or loan to a retailer or consumer any:
- 1461 (a) money;
 - 1462 (b) equipment;
 - 1463 (c) fixtures, including ice cream cabinets or bulk milk dispensers;
 - 1464 (d) supplies, excluding expendable supplies commonly provided in connection with the
1465 sale of dairy products to a consumer; or
 - 1466 (e) other things having a real or substantial value.
- 1467 (3) (a) Ice cream cabinets may be loaned or sold to a retailer if the ice cream cabinet:
- 1468 (i) is portable;
 - 1469 (ii) has a storage capacity not exceeding 12 cubic feet; and
 - 1470 (iii) is used solely for retail display sales of novelty ice cream.
- 1471 (b) Milk coolers may be loaned or sold to a retailer if the milk cooler:
- 1472 (i) is portable;
 - 1473 (ii) has a storage capacity not exceeding 12 cubic feet; and
 - 1474 (iii) is used solely for retail display sales of liquid dairy products.
- 1475 (4) The leasing or renting of cabinets, dispensers, or coolers for dairy products for civic
1476 affairs, demonstrations, or exhibits is prohibited unless it is for a period of 10 days or less in
1477 any one period of three consecutive months.
- 1478 (5) (a) Except as provided in Subsections (5)(b) and (5)(c), no retailer shall lease, sell,
1479 or loan shelf or refrigerator space for dairy products to a processor, manufacturer, or distributor
1480 or receive anything of value from a processor, manufacturer, or distributor in exchange for
1481 shelf or refrigerator space for dairy products.
- 1482 (b) Subsection (5)(a) does not apply to a dairy by-product that is:
 - 1483 (i) a short-term special; or
 - 1484 (ii) a new product being introduced on a trial basis for a period not to exceed 45 days.
 - 1485 (c) A processor, manufacturer, or distributor may loan or sell an ice cream cabinet or

1486 milk cooler to a retailer for the display of the processor's, manufacturer's, or distributor's
1487 products, if the ice cream cabinet or milk cooler meets the requirements of Subsection (3).

1488 Section 43. Section **4-3-403**, which is renumbered from Section 4-3-12 is renumbered
1489 and amended to read:

1490 ~~[4-3-12]~~. **4-3-403. Injunctions -- Bond not required -- Standing to maintain**
1491 **private action -- Damages authorized.**

1492 (1) (a) The commissioner is authorized to apply to any court of competent jurisdiction
1493 for a temporary restraining order or injunction restraining any person from violating this
1494 chapter.

1495 (b) No bond shall be required of the department in any proceeding brought under this
1496 subsection.

1497 (2) (a) In addition to penalties provided in this chapter, any person who suffers or is
1498 threatened with injury from any existing or threatened violation of Section ~~[4-3-11]~~ 4-3-402
1499 may commence an action in any court of competent jurisdiction for damages and, if proper,
1500 injunctive relief.

1501 (b) Any organized and existing trade association, whether incorporated or not, is
1502 authorized to institute and prosecute a suit for injunctive relief and damages, as the real party in
1503 interest, on behalf of one or more of its members if the violation of Section ~~[4-3-11]~~ 4-3-402
1504 directly or indirectly affects a member.

1505 Section 44. Section **4-3-501**, which is renumbered from Section 4-3-1.3 is renumbered
1506 and amended to read:

1507 **Part 5. Special Programs**

1508 ~~[4-3-1.3]~~. **4-3-501. Cow share program notification.**

1509 (1) A producer who is in a cow-share program, as defined in Section ~~[4-3-1]~~ 4-3-102,
1510 shall notify the department of the cow-share program and include in the notification:

1511 (a) the producer's name; and

1512 (b) a valid, current address of the farm on which the milk producing hoofed mammal in
1513 the cow-share program is located.

(2) Upon receipt, the department shall keep a notification of a cow-share program described in Subsection (1) on file.

Section 45. Section **4-3-502**, which is renumbered from Section 4-3-13 is renumbered and amended to read:

~~[4-3-13]~~. 4-3-502. Exemption.

(1) This chapter does not apply to milk or milk products produced on the farm if such milk or milk products are used by:

- (a) the owner of the farm;
- (b) a member of the owner's immediate family;
- (c) a participant in a cow-share program; or
- (d) a member of a participant in a cow-share program's immediate family.

(2) The department may not adopt a rule that restricts, limits, or imposes additional requirements on an individual obtaining:

- (a) raw milk in accordance with the terms of a cow-share program agreement; or
- (b) an interest in a cow-share program in accordance with the terms of the cow-share program agreement.

Section 46. Section **4-3-503**, which is renumbered from Section 4-3-14 is renumbered and amended to read:

~~[4-3-14]~~. 4-3-503. Sale of raw milk -- Suspension of producer's permit -- Severability not permitted.

- (1) As used in this section:
- (a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.
 - (b) "Self-owned retail store" means a retail store:
 - (i) of which the producer owns at least 51% of the value of the real property and tangible personal property used in the operations of the retail store; or
 - (ii) for which the producer has the power to vote at least 51% of any class of voting shares or ownership interest in the business entity that operates the retail store.

(2) Raw milk may be manufactured, distributed, sold, delivered, held, stored, or offered

1542 for sale if:

1543 (a) the producer obtains a permit from the department to produce milk under

1544 Subsection [~~4-3-8~~] 4-3-301(5);

1545 (b) the sale and delivery of the milk is made upon the premises where the milk is

1546 produced, except as provided by Subsection (3);

1547 (c) the raw milk is sold to consumers for household use and not for resale;

1548 (d) the raw milk is bottled or packaged under sanitary conditions and in sanitary

1549 containers on the premises where the raw milk is produced;

1550 (e) the raw milk is labeled "raw milk" and meets the labeling requirements under 21

1551 C.F.R. Parts 101 and 131 and rules established by the department;

1552 (f) the raw milk is:

1553 (i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being

1554 drawn from the animal;

1555 (ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the

1556 animal; and

1557 (iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is

1558 delivered to the consumer;

1559 (g) the bacterial count of the raw milk does not exceed 20,000 colony forming units per

1560 milliliter;

1561 (h) the coliform count of the raw milk does not exceed 10 colony forming units per

1562 milliliter;

1563 (i) the production of the raw milk conforms to departmental rules for the production of

1564 grade A milk;

1565 (j) all dairy animals on the premises are:

1566 (i) permanently and individually identifiable; and

1567 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

1568 (k) any person on the premises performing any work in connection with the production,

1569 bottling, handling, or sale of the raw milk is free from communicable disease.

1570 (3) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk at a
1571 self-owned retail store, which is properly staffed, if, in addition to the requirements of
1572 Subsection (2), the producer:

1573 (a) transports the raw milk from the premises where the raw milk is produced to the
1574 self-owned retail store in a refrigerated truck where the raw milk is maintained at 41 degrees
1575 Fahrenheit or a lower temperature;

1576 (b) retains ownership of the raw milk until it is sold to the final consumer, including
1577 transporting the raw milk from the premises where the raw milk is produced to the self-owned
1578 retail store without any:

1579 (i) intervening storage;

1580 (ii) change of ownership; or

1581 (iii) loss of physical control;

1582 (c) stores the raw milk at 41 degrees Fahrenheit or a lower temperature in a display
1583 case equipped with a properly calibrated thermometer at the self-owned retail store;

1584 (d) places a sign above each display case that contains raw milk at the self-owned retail
1585 store that:

1586 (i) is prominent;

1587 (ii) is easily readable by a consumer;

1588 (iii) reads in print that is no smaller than .5 inches in bold type, "This milk is raw and
1589 unpasteurized. Please keep refrigerated"; and

1590 (iv) meets any other requirement established by the department by rule;

1591 (e) labels the raw milk with:

1592 (i) a date, no more than nine days after the raw milk is produced, by which the raw
1593 milk should be sold;

1594 (ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";

1595 (iii) handling instructions to preserve quality and avoid contamination or spoilage;

1596 (iv) by January 1, 2017, a specific colored label as determined by the department by
1597 rule; and

- 1598 (v) any other information required by rule;
- 1599 (f) refrains from offering the raw milk for sale until:
- 1600 (i) the department or a third party certified by the department tests each batch of raw
- 1601 milk for standard plate count and coliform count; and
- 1602 (ii) the test results meet the minimum standards established for those tests;
- 1603 (g) (i) maintains a database of the raw milk sales; and
- 1604 (ii) makes the database available to the Department of Health during the self-owned
- 1605 retail store's business hours for purposes of epidemiological investigation;
- 1606 (h) ensures that the plant and retail store complies with ~~[Title 4,]~~ Chapter 5, Utah
- 1607 Wholesome Food Act, and the rules governing food establishments enacted under Section
- 1608 ~~[4-5-9]~~ [4-5-401](#); and
- 1609 (i) complies with all applicable rules adopted as authorized by this chapter.
- 1610 (4) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk and
- 1611 pasteurized milk at the same self-owned retail store if:
- 1612 (a) the self-owned retail store is properly staffed; and
- 1613 (b) the producer:
- 1614 (i) meets the requirements of Subsections (2) and (3);
- 1615 (ii) operates the self-owned retail store on the same property where the raw milk is
- 1616 produced; and
- 1617 (iii) maintains separate, labeled, refrigerated display cases for raw milk and pasteurized
- 1618 milk.
- 1619 (5) A person who conducts a test required by Subsection (3) shall send a copy of the
- 1620 test results to the department as soon as the test results are available.
- 1621 (6) (a) The department shall adopt rules, as authorized by Section ~~[4-3-2]~~ [4-3-201](#),
- 1622 governing the sale of raw milk at a self-owned retail store.
- 1623 (b) The rules adopted by the department shall include rules regarding:
- 1624 (i) permits;
- 1625 (ii) building and premises requirements;

- 1626 (iii) sanitation and operating requirements, including bulk milk tanks requirements;
1627 (iv) additional tests;
1628 (v) frequency of inspections, including random cooler checks;
1629 (vi) recordkeeping; and
1630 (vii) packaging and labeling.

1631 (c) (i) The department shall establish and collect a fee for the tests and inspections
1632 required by this section and by rule in accordance with Section 63J-1-504.

1633 (ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as
1634 dedicated credits and may only use the fees to administer and enforce this section.

1635 (7) (a) The department shall suspend a permit issued under Section [4-3-8] 4-3-301 if:

1636 (i) two out of four consecutive samples or two samples in a 30-day period violate
1637 sample limits established under this section; or

1638 (ii) a producer violates a provision of this section or a rule adopted as authorized by
1639 this section.

1640 (b) The department may reissue a permit that has been suspended under Subsection
1641 (7)(a) if the producer has complied with all of the requirements of this section and rules
1642 adopted as authorized by this section.

1643 ~~[(8) For 2014 and 2015, the Department of Health and the Department of Agriculture~~
1644 ~~and Food shall report on or before November 30th to the Natural Resources, Agriculture, and~~
1645 ~~Environment Interim Committee on any health problems resulting from the sale of raw whole~~
1646 ~~milk at self-owned retail stores.]~~

1647 ~~[(9)]~~ (8) (a) If any subsection of this section or the application of any subsection to any
1648 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,
1649 the remainder of the section may not be given effect without the invalid subsection or
1650 application.

1651 (b) The provisions of this section may not be severed.

1652 Section 47. Section 4-4-101, which is renumbered from Section 4-4-1 is renumbered
1653 and amended to read:

CHAPTER 4. EGGS

~~[4-4-1].~~ **4-4-101. Title.**

~~[The department shall establish grades and standards of quality, size, and weight governing the sale of eggs.]~~ This chapter is known as "Eggs."

Section 48. Section **~~4-4-102~~**, which is renumbered from Section 4-4-2 is renumbered and amended to read:

~~[4-4-2].~~ **4-4-102. Department to establish egg grades and standards -- Authority to make and enforce rules.**

(1) The department shall establish grades and standards of quality, size, and weight governing the sale of eggs.

(2) The department ~~[is authorized]~~ shall, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[to]~~ make and enforce ~~[such]~~ rules ~~[as in its judgment]~~ that are necessary to administer and enforce this chapter.

Section 49. Section **~~4-4-103~~**, which is renumbered from Section 4-4-3 is renumbered and amended to read:

~~[4-4-3].~~ **4-4-103. Definitions.**

As used in this chapter:

(1) "Addled" or "white rot" means putrid or rotten.

(2) "Adherent yolk" means the yolk has settled to one side and become fastened to the shell.

(3) "Albumen" means the white of an egg.

~~[(3)]~~ (4) "Black rot" means the egg has deteriorated to such an extent that the whole interior presents a blackened appearance.

~~[(4)]~~ (5) "Black spot" means ~~[mould]~~ mold or bacteria have developed in isolated areas inside the shell.

~~[(5)]~~ (6) "Blood ring" means bacteria have developed to such an extent that blood is formed.

~~[(6)]~~ (7) "Candling" means the act of determining the condition of an egg by holding it

before a strong light in such a way that ~~[it]~~ the light shines through the egg and reveals ~~[its]~~ the egg's contents.

~~[(7) "Mouldy" means mould]~~

(8) "Moldy" means mold spores have formed within the shell.

Section 50. Section ~~4-4-104~~, which is renumbered from Section 4-4-4 is renumbered and amended to read:

~~[4-4-4].~~ **4-4-104. Unlawful acts specified.**

(1) It is unlawful for any person to sell, offer, or expose ~~[any egg]~~ for sale for human consumption any egg:

(a) that is addled or ~~[mouldy]~~ moldy or that contains black spot, black rot, white rot, blood ring, adherent yolk, or a bloody or green ~~[white, also called]~~ albumen; or

(b) without a sign or label that conforms to the standards for display and grade adopted by the department.

(2) Nothing in this section ~~[shall prohibit]~~ prohibits the sale of a denatured ~~[eggs]~~ egg.

Section 51. Section ~~4-4-105~~, which is renumbered from Section 4-4-5 is renumbered and amended to read:

~~[4-4-5].~~ **4-4-105. Maintenance of candling records -- Inspection of records.**

~~[Every]~~ (1) A person who sells, offers, or exposes eggs for sale or exchange shall maintain candling records as prescribed by the department.

(2) All candling records shall be open for examination by accredited inspectors or representatives of the department at reasonable times.

Section 52. Section ~~4-4-106~~, which is renumbered from Section 4-4-6 is renumbered and amended to read:

~~[4-4-6].~~ **4-4-106. Retailers exempt from prosecution -- Conditions for exemption.**

~~[No]~~ (1) Subject to Subsection (2), no retailer is subject to prosecution under this chapter if the retailer can establish that:

(a) at the time ~~[the eggs were]~~ an egg was purchased the seller guaranteed that the

1710 [eggs] egg conformed to the grade [and], quality [and], size, and weight stated in the purchase
1711 invoice; and [that]

1712 (b) the [eggs were] egg was labeled for sale by the retailer in accordance with the
1713 purchase invoice[; provided, that such guaranty].

1714 (2) The guaranty by the seller described in Subsection (1)(a) does not exempt a retailer
1715 from prosecution if the [eggs] egg covered by the guaranty deteriorated to a lower grade or
1716 standard through some action or inaction of the retailer.

1717 Section 53. Section **4-5-101**, which is renumbered from Section 4-5-1 is renumbered
1718 and amended to read:

1719 CHAPTER 5. UTAH WHOLESOME FOOD ACT

1720 Part 1. Administration

1721 ~~[4-5-1].~~ **4-5-101. Title.**

1722 This chapter is known as the "Utah Wholesome Food Act."

1723 Section 54. Section **4-5-102**, which is renumbered from Section 4-5-2 is renumbered
1724 and amended to read:

1725 ~~[4-5-2].~~ **4-5-102. Definitions.**

1726 As used in this chapter:

1727 (1) "Advertisement" means a representation, other than by labeling, made to induce the
1728 purchase of food.

1729 (2) (a) "Color additive";

1730 (i) means a dye, pigment, or other substance not exempted under the federal act that,
1731 when added or applied to a food, is capable of imparting color[. "~~Color~~"]; and

1732 (ii) includes black, white, and intermediate grays.

1733 (b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or
1734 other agricultural chemical which imparts color solely because of its effect, before or after
1735 harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other
1736 natural physiological process of any plant life.

1737 (3) (a) "Consumer commodity" means a food, as defined by this act, or by the federal

1738 act.

1739 (b) "Consumer commodity" does not include:

1740 (i) a commodity subject to packaging or labeling requirements imposed under the

1741 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

1742 (ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

1743 (iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec.

1744 601 et seq.;

1745 (iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec.

1746 451 et seq.;

1747 (v) a tobacco or tobacco product; or

1748 (vi) a beverage subject to or complying with packaging or labeling requirements

1749 imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

1750 (4) "Contaminated" means not securely protected from dust, dirt, or foreign or

1751 injurious agents.

1752 (5) "Farmers market" means a market where producers of food products sell only fresh,

1753 raw, whole, unprocessed, and unprepared food items directly to the final consumer.

1754 (6) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301

1755 et seq.

1756 (7) "Food" means:

1757 (a) an article used for food or drink for human or animal consumption or the

1758 components of the article;

1759 (b) chewing gum or its components; or

1760 (c) a food supplement for special dietary use which is necessitated because of a

1761 physical, physiological, pathological, or other condition.

1762 (8) (a) "Food additive" means a substance, the intended use of which results in the

1763 substance becoming a component, or otherwise affecting the characteristics, of a food.

1764 (b) (i) "Food additive" includes a substance or source of radiation intended for use in

1765 producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or

1766 holding food.

1767 ~~[(b)]~~ (ii) "Food additive" does not include:

1768 ~~[(i)]~~ (A) a pesticide chemical in or on a raw agricultural commodity;

1769 ~~[(ii)]~~ (B) a pesticide chemical that is intended for use or is used in the production,

1770 storage, or transportation of a raw agricultural commodity; or

1771 ~~[(iii)]~~ (C) a substance used in accordance with a sanction or approval granted pursuant

1772 to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat

1773 Inspection Act, 21 U.S.C. Sec. 601 et seq.

1774 (9) (a) "Food establishment" means a grocery store, bakery, candy factory, food

1775 processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill,

1776 cold or dry warehouse storage, or other facility where food products are manufactured, canned,

1777 processed, packaged, stored, transported, prepared, sold, or offered for sale.

1778 (b) "Food establishment" does not include:

1779 (i) a dairy farm, a dairy plant, or a meat establishment, which is subject to the Poultry

1780 Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21

1781 U.S.C. Sec. 601 et seq.; or

1782 (ii) a farmers market.

1783 (10) "Label" means a written, printed, or graphic display on the immediate container of

1784 an article of food. ~~[The department may require that a label contain specific written, printed, or~~

1785 ~~graphic information which is:]~~

1786 ~~[(a) displayed on the outside container or wrapper of a retail package of an article; or]~~

1787 ~~[(b) easily legible through the outside container or wrapper.]~~

1788 (11) "Labeling" means a label and other written, printed, or graphic display:

1789 (a) on an article of food or its containers or wrappers; or

1790 (b) accompanying the article of food.

1791 (12) "Official compendium" means the official documents or supplements to the:

1792 (a) United States Pharmacopoeia;

1793 (b) National Formulary; or

- 1794 (c) Homeopathic Pharmacopoeia of the United States.
- 1795 (13) (a) "Package" means a container or wrapping in which a consumer commodity is
- 1796 enclosed for use in the delivery or display of the consumer commodity to retail purchasers.
- 1797 (b) "Package" does not include:
- 1798 (i) package liners;
- 1799 (ii) shipping containers or wrapping used solely for the transportation of consumer
- 1800 commodities in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail
- 1801 distributors; or
- 1802 (iii) shipping containers or outer wrappings used by retailers to ship or deliver a
- 1803 consumer commodity to retail customers, if the containers and wrappings bear no printed
- 1804 information relating to the consumer commodity.
- 1805 (14) (a) "Pesticide" means a substance intended:
- 1806 (i) to prevent, destroy, repel, or mitigate a pest, as defined under Subsection [~~4-14-2~~]
- 1807 4-14-102(20); or
- 1808 (ii) for use as a plant regulator, defoliant, or desiccant.
- 1809 (b) "Pesticide" does not include:
- 1810 (i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by
- 1811 the United States Secretary of Health and Human Services not to be a new animal drug by
- 1812 federal regulation establishing conditions of use of the drug; or
- 1813 (ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal
- 1814 drug.
- 1815 (15) "Principal display panel" means that part of a label that is most likely to be
- 1816 displayed, presented, shown, or examined under normal and customary conditions of display
- 1817 for retail sale.
- 1818 (16) "Raw agricultural commodity" means a food in its raw or natural state, including
- 1819 all fruits that are washed, colored, or otherwise treated in their unpeeled, natural form prior to
- 1820 marketing.
- 1821 (17) "Registration" means the issuance of a certificate by the commissioner to a

1822 qualified food establishment.

1823 Section 55. Section ~~4-5-103~~, which is renumbered from Section 4-5-7 is renumbered
1824 and amended to read:

1825 ~~[4-5-7]~~. **4-5-103. Adulterated food specified.**

1826 A food is adulterated:

1827 (1) (a) if it bears or contains any poisonous or deleterious substance that may render it
1828 injurious to health; but in case the substance is not an added substance the food may not be
1829 considered adulterated under this Subsection (1)(a) if the quantity of the substance in such food
1830 does not ordinarily render it injurious to health;

1831 (b) (i) if it bears or contains any added poisonous or added deleterious substance other
1832 than one that is:

1833 (A) a pesticide chemical in or on a raw agricultural commodity;

1834 (B) a food additive; or

1835 (C) a color additive that is unsafe within the meaning of Subsection ~~[4-5-11]~~

1836 4-5-204(1); or

1837 (ii) if it is a raw agricultural commodity and it bears or contains a pesticide chemical
1838 that is unsafe within the meaning of 21 U.S.C. Sec. 346a; or

1839 (iii) if it is or it bears or contains any food additive that is unsafe within the meaning of
1840 21 U.S.C. Sec. 348; provided that where a pesticide chemical has been used in or on a raw
1841 agricultural commodity in conformity with an exemption granted or tolerance prescribed under
1842 21 U.S.C. 346a and the raw agricultural commodity has been subjected to processing such as
1843 canning, cooking, freezing, dehydrating, or milling the residue of such pesticide chemical
1844 remaining in or on such processed food shall, notwithstanding the provisions of Section
1845 ~~[4-5-11]~~ 4-5-204 and this Subsection (1)(b)(iii), not be considered unsafe if such residue in or
1846 on the raw agricultural commodity has been removed to the extent possible in good
1847 manufacturing practice, and the concentration of such residue in the processed food when ready
1848 to eat is not greater than the tolerance prescribed for the raw agricultural commodity;

1849 (c) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or

1850 decomposed substance, or if it is otherwise unfit for food;

1851 (d) if it has been produced, prepared, packed, or held under unsanitary conditions

1852 whereby it may have become contaminated with filth, or whereby it may have been rendered

1853 diseased, unwholesome, or injurious to health;

1854 (e) if it is, in whole or in part, the product of a diseased animal or an animal that has

1855 died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal

1856 from a slaughterhouse;

1857 (f) if its container is composed, in whole or in part, of any poisonous or deleterious

1858 substance that may render the contents injurious to health;

1859 (g) if it has been intentionally subjected to radiation, unless the use of the radiation was

1860 in conformity with a rule or exemption in effect pursuant to Section [~~4-5-11~~] 4-5-204, or 21

1861 U.S.C. Sec. 348; or

1862 (h) in meat or meat products are adulterated:

1863 (i) if such products are in casings, packages, or wrappers through which any part of

1864 their contents can be seen and which, or the markings of which, are colored red or any other

1865 color so as to be misleading or deceptive with respect to the color, quality, or kind of such

1866 products to which they are applied; or

1867 (ii) if such products contain or bear any color additive;

1868 (2) (a) if any valuable constituent has been in whole or in part omitted or abstracted

1869 therefrom;

1870 (b) if any substance has been substituted wholly or in part therefor;

1871 (c) if damage or inferiority has been concealed in any manner; or

1872 (d) if any substance has been added or mixed or packed therewith so as to increase its

1873 bulk or weight, or reduce its quality or strength or make it appear better or of greater value than

1874 it is; or

1875 (3) if it is confectionery, and:

1876 (a) has partially or completely imbedded therein any nonnutritive object; provided that

1877 this Subsection (3)(a) does not apply in the case of any nonnutritive objective if, in the

judgment of the department such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health;

(b) bears or contains any alcohol other than alcohol not in excess of .05% by volume derived solely from the use of flavoring extracts; or

(c) bears or contains any nonnutritive substance; provided, that this Subsection (3)(c) does not apply to a safe nonnutritive substance that is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this chapter.

(4) The department may, for the purpose of avoiding or resolving uncertainty as to the application of Subsection (3)(c), issue rules allowing or prohibiting the use of particular nonnutritive substances.

Section 56. Section **4-5-104**, which is renumbered from Section 4-5-17 is renumbered and amended to read:

~~[4-5-17]~~. 4-5-104. Authority to make and enforce rules.

(1) The department may adopt rules to efficiently enforce this chapter, and if practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(2) Hearings authorized or required by this chapter shall be conducted by the department or by an officer, agent, or employee designated by the department.

(3) (a) Except as provided by Subsection (3)(b), all pesticide chemical regulations and their amendments now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.

(b) The department may adopt a rule that prescribes tolerance for pesticides in finished foods in this state whether or not in accordance with regulations promulgated under the federal act.

(4) (a) Except as provided by Subsection (4)(b), all food additive regulations and their amendments now or hereafter adopted under authority of the Federal Food, Drug, and

1906 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.

1907 (b) The department may adopt a rule that prescribes conditions under which a food
1908 additive may be used in this state whether or not in accordance with regulations promulgated
1909 under the federal act.

1910 (5) All color additive regulations adopted under authority of the Federal Food, Drug,
1911 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.

1912 (6) (a) Except as provided by Subsection (6)(b), all special dietary use regulations
1913 adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et
1914 seq., are the special dietary use rules in this state.

1915 (b) The department may, if it finds it necessary to inform purchasers of the value of a
1916 food for special dietary use, prescribe special dietary use rules whether or not in accordance
1917 with regulations promulgated under the federal act.

1918 (7) (a) Except as provided by Subsection (7)(b), all regulations adopted under the Fair
1919 Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.

1920 (b) Except as provided by Subsection (7)(c), the department may, if it finds it necessary
1921 in the interest of consumers, prescribe package and labeling rules for consumer commodities,
1922 whether or not in accordance with regulations promulgated under the federal act.

1923 (c) The department may not adopt rules that are contrary to the labeling requirements
1924 for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).

1925 (8) (a) A federal regulation automatically adopted according to this chapter takes effect
1926 in this state on the date it becomes effective as a federal regulation.

1927 (b) The department shall publish all other proposed rules in publications prescribed by
1928 the department.

1929 (c) (i) A person who may be adversely affected by a rule may, within 30 days after a
1930 federal regulation is automatically adopted, or within 30 days after publication of any other
1931 rule, file with the department, in writing, objections and a request for a hearing.

1932 (ii) The timely filing of substantial objections to a federal regulation automatically
1933 adopted stays the effect of the rule.

(d) (i) If no substantial objections are received and no hearing is requested within 30 days after publication of a proposed rule, it shall take effect on a date set by the department.

(ii) The effective date shall be at least 60 days after the time for filing objections has expired.

(e) (i) If timely substantial objections are made to a federal regulation within 30 days after it is automatically adopted or to a proposed rule within 30 days after it is published, the department, after notice, shall conduct a public hearing to receive evidence on the issues raised by the objections.

(ii) Any interested person or ~~[his]~~ the person's representative may be heard.

(f) (i) The department shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable.

(ii) The order shall be based on substantial evidence in the record of the hearing.

(g) (i) If the order concerns a proposed rule, it may withdraw it or set an effective date for the rule as published or as modified by the order.

(ii) The effective date shall be at least 60 days after publication of the order.

(9) Whenever a regulation is promulgated under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances established by the department under this chapter shall immediately conform to the standards established by the Federal Food and Drug Administration as herein provided and shall remain the same until the department determines that for reasons peculiar to Utah a different rule should apply.

Section 57. Section **4-5-105**, which is renumbered from Section 4-5-18 is renumbered and amended to read:

~~[4-5-18].~~ **4-5-105. Inspection of premises and records -- Authority to take samples -- Inspection results reported.**

(1) An authorized agent of the department upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

(a) enter at reasonable times any factory, warehouse, or establishment in which food is

1962 manufactured, processed, packed, or held for introduction into commerce or after introduction
1963 into commerce;

1964 (b) enter any vehicle being used to transport or hold food in commerce;

1965 (c) inspect at reasonable times and within reasonable limits and in a reasonable manner
1966 any factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and
1967 unfinished materials, containers, and labeling located within it;

1968 (d) obtain samples necessary for the enforcement of this chapter so long as the
1969 department pays the posted price for the sample if requested to do so and receives a signed
1970 receipt from the person from whom the sample is taken;

1971 (e) have access to and copy all records of carriers in commerce showing:

1972 (i) the movement in commerce of any food;

1973 (ii) the holding of food during or after movement in commerce; and

1974 (iii) the quantity, shipper, and consignee of food.

1975 (2) Evidence obtained under this section may not be used in a criminal prosecution of
1976 the person from whom the evidence was obtained.

1977 (3) Carriers may not be subject to the other provisions of this chapter by reason of their
1978 receipt, carriage, holding, or delivery of food in the usual course of business as carriers.

1979 (4) Upon completion of the inspection of a factory, warehouse, consulting laboratory,
1980 or other establishment and prior to leaving the premises, the authorized agent making the
1981 inspection shall give to the owner, operator, or agent in charge a report in writing setting forth
1982 any conditions or practices observed by him which in his judgment indicate that any food in the
1983 establishment:

1984 (a) consists in whole or in part of any filthy, putrid, or decomposed substance; or

1985 (b) has been prepared, packed, or held under unsanitary conditions whereby it may
1986 have become contaminated with filth or whereby it may have been rendered injurious to health.

1987 (5) A copy of the report shall be sent promptly to the department.

1988 (6) If the authorized agent making the inspection of a factory, warehouse, or other
1989 establishment has obtained any sample in the course of the inspection, the agent shall give to

the owner, operator, or agent in charge a receipt describing the samples obtained.

(7) When in the course of the inspection the officer or employee making the inspection obtains a sample of any food and an analysis is made of the sample for the purpose of ascertaining whether the food consists in whole or in part of any filthy, putrid, or decomposed substance or is otherwise unfit for food, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

Section 58. Section ~~4-5-106~~, which is renumbered from Section 4-5-19 is renumbered and amended to read:

~~[4-5-19].~~ **4-5-106. Publication of reports and information.**

(1) The department shall publish reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and its disposition.

(2) The department shall disseminate information regarding food which it considers necessary in the interest of public health and for the protection of consumers against fraud.

(3) Nothing in this section [~~shall be construed to prohibit~~] prohibits the department from collecting, reporting, and illustrating the results of investigations made by [it] the department.

Section 59. Section ~~4-5-201~~, which is renumbered from Section 4-5-8 is renumbered and amended to read:

Part 2. Labels and Regulations

~~[4-5-8].~~ **4-5-201. Labeling requirements -- Misbranded food specified.**

(1) The department may require that a label contain specific written, printed, or graphic information which is:

(a) displayed on the outside container or wrapper of a retail package of an article; or

(b) easily legible through the outside container or wrapper.

~~[(1)]~~ (2) Food is misbranded if:

(a) its label is false or misleading in any way;

(b) its labeling or packaging fails to conform with the requirements of Section [~~4-5-15~~]

2018 [4-5-205](#);

2019 (c) it is offered for sale under the name of another food;

2020 (d) its container is so made, formed, or filled with packing material or air as to be
2021 misleading; or

2022 (e) it fails to conform with any requirement specified in this section.

2023 ~~[(2)]~~ (3) A food that is an imitation of another food shall bear a label, in type of
2024 uniform size and prominence, stating the word "imitation," and, immediately thereafter, the
2025 name of the food imitated.

2026 ~~[(3)]~~ (4) (a) A food in package form shall bear a label containing:

2027 (i) the name and place of business of the manufacturer, packer, or distributor; and

2028 (ii) an accurate statement of the quantity of the contents in terms of weight, measure, or
2029 numerical count.

2030 (b) The statement required by Subsection ~~[(3)]~~ (4)(a)(ii) shall be separately and
2031 accurately stated in a uniform location upon the principal display panel of the label unless
2032 reasonable variations and exemptions for small packages are established by a rule made by the
2033 department.

2034 (c) A manufacturer or distributor of carbonated beverages who utilizes proprietary
2035 stock or a proprietary crown is exempt from Subsection ~~[(3)]~~ (4)(a)(i) if he files with the
2036 department:

2037 (i) a sworn affidavit giving a full and complete description of each area within the state
2038 in which beverages of his manufacturing or distributing are to be distributed; and

2039 (ii) the name and address of the person responsible for compliance with this chapter
2040 within each of those areas.

2041 ~~[(4)]~~ (5) Any word, statement, or other information required by this chapter to appear
2042 on the label or labeling shall be:

2043 (a) prominently placed on the label;

2044 (b) conspicuous in comparison with other words, statements, designs, or devices in the
2045 labeling; and

(c) in terms which render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

~~[(5)]~~ (6) If a food is represented as a food for which a definition and standard of identity has been prescribed by federal regulations or department rules as provided by Section ~~[4-5-6]~~ [4-5-207](#), it shall:

(a) conform to the definition and standard; and

(b) have a label bearing:

(i) the name of the food specified in the definition and standard; and

(ii) insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavorings, and colorings, present in the food.

~~[(6)]~~ (7) If a food is represented as a food for which a standard of quality has been prescribed by federal regulations or department rules as provided by Section ~~[4-5-6]~~ [4-5-207](#), and its quality falls below the standard, its label shall bear, in the manner and form as the regulations or rules specify, a statement indicating that it falls below the standards.

~~[(7)]~~ (8) If a food is represented as a food for which a standard of fill of container has been prescribed by federal regulations or department rules as provided by Section ~~[4-5-6]~~ [4-5-207](#), and it falls below the applicable standard of fill, its label shall bear, in the manner and form as the regulations or rules specify, a statement indicating that it falls below the standard.

~~[(8)]~~ (9) (a) Any food for which neither a definition nor standard of identity has been prescribed by federal regulations or department rules as provided by Section ~~[4-5-6]~~ [4-5-207](#) shall bear labeling clearly giving:

(i) the common or usual name of the food, if any; and

(ii) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each.

(b) To the extent that compliance with the requirements of Subsection ~~[(8)]~~ (9)(a)(ii) is impractical or results in deception or unfair competition, exemptions shall be established by rules made by the department.

2074 ~~[(9)]~~ (10) If a food is represented as a food for special dietary uses, its label shall bear
2075 the information concerning its vitamin, mineral, and other dietary properties as the department
2076 by rule prescribes.

2077 ~~[(10)]~~ (11) (a) If a food bears or contains any artificial flavoring, artificial coloring, or
2078 chemical preservatives, its label shall state that fact.

2079 (b) If compliance with the requirements of ~~[this subsection]~~ Subsection (11)(a) is
2080 impracticable, exemptions shall be established by rules made by the department.

2081 ~~[(11)]~~ (12) (a) The shipping container of any raw agricultural commodity bearing or
2082 containing a pesticide chemical applied after harvest shall bear labeling which declares the
2083 presence of the chemical in or on the commodity and the common or usual name and function
2084 of the chemical.

2085 (b) The declaration is not required while the commodity, having been removed from
2086 the shipping container, is being held or displaced for sale at retail out of the container in
2087 accordance with the custom of the trade.

2088 ~~[(12)]~~ (13) A product intended as an ingredient of another food, when used according
2089 to the directions of the purveyor, may not result in the final food product being adulterated or
2090 misbranded.

2091 ~~[(13)]~~ (14) The packaging and labeling of a color additive shall be in conformity with
2092 the packaging and labeling requirements applicable to the color additive prescribed under the
2093 federal act.

2094 ~~[(14)]~~ (15) (a) Subsections ~~[(5), (8), and (10)]~~ (6), (9), and (11) with respect to artificial
2095 coloring do not apply to butter, cheese, or ice cream.

2096 (b) Subsection ~~[(10)]~~ (11) with respect to chemical preservatives does not apply to a
2097 pesticide chemical when used in or on a raw agricultural commodity.

2098 Section 60. Section **4-5-202**, which is renumbered from Section 4-5-5 is renumbered
2099 and amended to read:

2100 ~~[4-5-5].~~ **4-5-202.** **Adulterated or misbranded articles -- Tagging -- Detention**
2101 **or embargo -- Court proceedings for condemnation -- Perishable food.**

2102 (1) (a) When an authorized agent of the department finds or has probable cause to
2103 believe that any food is adulterated, or so misbranded as to be dangerous or fraudulent within
2104 the meaning of this chapter, ~~[he]~~ the agents shall affix to the food a tag or other appropriate
2105 marking, giving notice that:

- 2106 (i) the food is, or is suspected of being, adulterated or misbranded;
- 2107 (ii) the food has been detained or embargoed; and
- 2108 (iii) removal of the food is prohibited as provided in Subsection (1)(b).

2109 (b) No person may remove or dispose of detained or embargoed food by sale or
2110 otherwise until permission for removal or disposal is given by an agent of the department or the
2111 court.

2112 (2) (a) When food detained or embargoed under Subsection (1) has been found by an
2113 agent to be adulterated or misbranded, the department shall petition the district court in whose
2114 jurisdiction the food is detained or embargoed for an order of condemnation of the food.

2115 (b) When the agent has found that food so detained or embargoed is not adulterated or
2116 misbranded, the department shall remove the tag or other marking.

2117 (3) (a) If the court finds that detained or embargoed food is adulterated or misbranded,
2118 the food shall, after entry of the decree, be destroyed under the supervision of the agent.

2119 (b) If the adulteration or misbranding can be corrected by proper labeling or processing
2120 of the food, the court may by order direct that the food be delivered to the claimant for labeling
2121 or processing after:

- 2122 (i) entry of the decree;
- 2123 (ii) all costs, fees, and expenses have been paid; and
- 2124 (iii) a sufficient bond, conditioned that the food shall be properly labeled and
2125 processed, has been executed.

2126 (c) An agent of the department shall supervise, at the claimant's expense, the labeling
2127 or processing of the food.

2128 (d) The bond shall be returned to the claimant of the food upon:

- 2129 (i) representation to the court by the department that the food is no longer in violation

of this chapter; and

(ii) the expenses of supervision have been paid.

(4) If an authorized agent of the department finds in any building or vehicle any perishable food which is unsound, contains any filthy, decomposed, or putrid substance, or may be poisonous, deleterious to health, or otherwise unsafe, the commissioner or his authorized agent shall condemn or destroy the food or render it unsalable as human food.

Section 61. Section **4-5-203**, which is renumbered from Section 4-5-10 is renumbered and amended to read:

~~[4-5-10].~~ 4-5-203. Food processed, labeled, or repacked at another location -- Exemption from labeling requirements by rule.

(1) The department shall adopt rules exempting food from any labeling requirement of this chapter that is, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that the food is not adulterated or misbranded under this chapter upon removal from such processing, labeling or repacking establishment.

(2) (a) Regulations now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., relating to the exemptions described in Subsection (1) are automatically effective in this state.

(b) The department may adopt additional rules or amendments to existing rules concerning exemptions.

Section 62. Section **4-5-204**, which is renumbered from Section 4-5-11 is renumbered and amended to read:

~~[4-5-11].~~ 4-5-204. Substances considered unsafe -- Authority in department to regulate quantity and use.

(1) (a) Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive, with respect to any particular use or intended use, is considered to be unsafe for the purpose of application of Subsection ~~[4-5-7]~~ 4-5-103(1)(b) unless:

- 2158 (i) there is in effect a rule adopted pursuant to this section or Section [~~4-5-17~~] [4-5-104](#)
2159 limiting the quantity of the substance; and
- 2160 (ii) the use or intended use of the substance conforms to the terms prescribed by the
2161 rule.
- 2162 (b) While the rules relating to the substance are in effect, a food may not, by reason of
2163 bearing or containing the substance in accordance with the rules, be considered adulterated
2164 within the meaning of Subsection [~~4-5-7~~] [4-5-103](#)(1)(a).
- 2165 (2) The department may make rules, which may or may not be in accordance with
2166 regulations made under the federal act, prescribing:
- 2167 (a) tolerances, including zero tolerances, for:
- 2168 (i) added poisonous or deleterious substances;
- 2169 (ii) food additives;
- 2170 (iii) pesticide chemicals in or on raw agricultural commodities; or
- 2171 (iv) color additives;
- 2172 (b) exemptions from tolerances in the case of pesticide chemicals in or on raw
2173 agricultural commodities; or
- 2174 (c) conditions under which a food additive or a color additive may be safely used and
2175 exemptions when a food additive or color additive may be used solely for investigational or
2176 experimental purposes.
- 2177 (3) (a) The department may make these rules upon its own initiative or upon the
2178 petition of any interested party.
- 2179 (b) It is incumbent upon the petitioner to establish by data submitted to the department
2180 that the rule is necessary to protect the public health.
- 2181 (c) If the data furnished by the petitioner is not sufficient to allow the department to
2182 determine whether the rule should be made, the department may require additional data to be
2183 submitted.
- 2184 (d) Failure to comply with the request is sufficient grounds to deny the request.
- 2185 (4) In making the rules, the department shall consider, among other relevant factors,

the following which the petitioner, if any, shall furnish:

(a) the name and all pertinent information concerning the substance including:

(i) where available;

(ii) its chemical identity and composition;

(iii) a statement of the conditions of the proposed use, including directions, recommendations, and suggestions;

(iv) specimens of proposed labeling; and

(v) all relevant data bearing on the physical or other technical effect and the quantity required to produce such effect;

(b) the probable composition of any substance formed in or on a food resulting from the use of the substance;

(c) the probable consumption of the substance in the diet of man and animals, taking into account any chemically or pharmacologically related substance in the diet;

(d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of the substances for the uses for which they are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data;

(e) the availability of any needed practicable methods of analysis for determining the identity and quantity of:

(i) the substance in or on food;

(ii) any substance formed in or on food because of the use of the substance; and

(iii) the pure substance and all intermediates and impurities; and

(f) facts supporting a contention that the proposed use of the substance will serve a useful purpose.

Section 63. Section ~~4-5-205~~, which is renumbered from Section 4-5-15 is renumbered and amended to read:

~~[4-5-15]~~. **4-5-205. Consumer commodities -- Labeling and packaging.**

(1) All labels of consumer commodities, as defined by this chapter, shall conform with the requirements for the declaration of net quantity of contents of 15 U.S.C. Sec. 1453 and the

2214 regulations promulgated pursuant thereto: provided, that consumer commodities exempted
2215 from 15 U.S.C. Sec. 1453(a)(4) shall also be exempt from this Subsection (1).

2216 (2) The label of any package of a consumer commodity that bears a representation as to
2217 the number of servings of the commodity contained in the package shall bear a statement of the
2218 net quantity in terms of weight, measure, or numerical count for each serving.

2219 (3) (a) No person shall distribute or cause to be distributed in commerce any packaged
2220 consumer commodity if any qualifying words or phrases appear in conjunction with the
2221 separate statement of the net quantity of contents required by Subsection (1), but nothing in this
2222 section shall prohibit supplemental statements, at other places on the package, describing in
2223 nondeceptive terms the net quantity of contents.

2224 (b) Supplemental statements of net quantity of contents may not include any term
2225 qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the
2226 commodity contained in the package.

2227 (4) (a) Whenever the department determines that rules other than those prescribed by
2228 Subsection (1) are necessary to prevent the deception of consumers or to facilitate value
2229 comparisons as to any consumer commodity, the department shall promulgate rules effective
2230 to:

2231 (i) establish and define standards for the characterization of the size of a package
2232 enclosing any consumer commodity, which may be used to supplement the label statement of
2233 net quantity of contents of packages containing the commodity, but this Subsection (4) does not
2234 authorize any limitation on the size, shape, weight, dimensions, or number of packages that
2235 may be used to enclose any commodity;

2236 (ii) regulate the placement upon any package containing any commodity, or upon any
2237 label affixed to a commodity, of any printed matter stating or representing by implication that
2238 the commodity is offered for retail sale at a price lower than the ordinary and customary retail
2239 sale price or that a retail sale price advantage is accorded to purchasers by reason of the size of
2240 that package or the quantity of its contents;

2241 (iii) require that the label on each package of a consumer commodity bear:

2242 (A) the common or usual name of such consumer commodity, if any; and

2243 (B) if the consumer commodity consists of two or more ingredients, the common or
2244 usual name of each such ingredient listed in order of decreasing predominance, but nothing in
2245 this Subsection (4) shall be considered to require that any trade secret be divulged; or

2246 (iv) prevent the nonfunctional slack-fill of packages containing consumer
2247 commodities.

2248 (b) For the purposes of Subsection (4)(a)(iv), a package is nonfunctionally slack-filled
2249 if it is filled to substantially less than its capacity for reasons other than:

2250 (i) protection of the contents of such package; or

2251 (ii) the requirements of machines used for enclosing the contents in such package;
2252 provided, that the department may adopt any rules promulgated according to the Fair Packaging
2253 and Labeling Act, 15 U.S.C. Sec. 1453.

2254 Section 64. Section ~~4-5-206~~, which is renumbered from Section 4-5-16 is renumbered
2255 and amended to read:

2256 ~~[4-5-16].~~ **4-5-206. Food advertisement false or misleading.**

2257 An advertisement of a food is considered to be false if it is false or misleading in any
2258 way.

2259 Section 65. Section ~~4-5-207~~, which is renumbered from Section 4-5-6 is renumbered
2260 and amended to read:

2261 ~~[4-5-6].~~ **4-5-207. Definitions and standards of identity, quality, and fill of**
2262 **container -- Rules -- Temporary and special permits.**

2263 (1) (a) Definitions and standards of identity, quality and fill of container, now or
2264 hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec.
2265 301 et seq., are the definitions and standards of identity, quality and fill of container in this
2266 state.

2267 (b) The department may adopt rules establishing definitions and standards of identity,
2268 quality and fill of container for foods where no federal regulations exist and may promulgate
2269 amendments to any federal regulations or state rules that set definitions and standards of

2270 identity, quality and fill of container for foods.

2271 (2) (a) Temporary permits [~~now or hereafter~~] granted for interstate shipment of
2272 experimental packs of food varying from the requirements of federal definitions and standards
2273 of identity are automatically effective in this state under the conditions provided in the permits.

2274 (b) The department may issue additional permits where they are necessary for the
2275 completion or conclusiveness of an otherwise adequate investigation and where the interests of
2276 consumers are safeguarded.

2277 (c) Permits are subject to the terms and conditions the department may prescribe by
2278 rule.

2279 Section 66. Section **4-5-301**, which is renumbered from Section 4-5-9 is renumbered
2280 and amended to read:

2281 **Part 3. Registration and Inspection**

2282 [~~4-5-9~~]. **4-5-301. Registration of food establishments -- Fee -- Suspension**
2283 **and reinstatement of registration -- Inspection for compliance.**

2284 (1) (a) Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2285 department shall establish rules providing for the registration of food establishments to protect
2286 public health and ensure a safe food supply.

2287 (b) The owner or operator of a food establishment shall register with the department
2288 before operating a food establishment.

2289 (c) [~~Prior to~~] Before granting a registration to the owner or operator of a food
2290 establishment, the department shall inspect and assess the food establishment to determine
2291 whether it complies with the rules established under Subsection (1)(a).

2292 (d) An applicant shall register with the department, in writing, using forms required by
2293 the department.

2294 (e) The department shall issue a registration to an applicant, if the department
2295 determines that the applicant meets the qualifications of registration established under
2296 Subsection (1)(a).

2297 (f) If the applicant does not meet the qualifications of registration, the department shall

2298 notify the applicant, in writing, that the applicant's registration is denied.

2299 (g) (i) If an applicant submits an incomplete application, a written notice of conditional
2300 denial of registration shall be provided to an applicant.

2301 (ii) The applicant shall correct the deficiencies within the time period specified in the
2302 notice to receive a registration.

2303 (h) (i) The department may, as provided under Subsection [~~4-2-2~~] 4-2-103(2), charge
2304 the food establishment a registration fee.

2305 (ii) The department shall retain the fees as dedicated credits and shall use the fees to
2306 administer the registration of food establishments.

2307 (2) (a) A registration, issued under this section, shall be valid from the date the
2308 department issues the registration, to December 31 of the year the registration is issued.

2309 (b) A registration may be renewed for the following year by applying for renewal by
2310 December 31 of the year the registration expires.

2311 (3) A registration, issued under this section, shall specify:

2312 (a) the name and address of the food establishment;

2313 (b) the name of the owner or operator of the food establishment; and

2314 (c) the registration issuance and expiration date.

2315 (4) (a) The department may immediately suspend a registration, issued under this
2316 section, if any of the conditions of registration have been violated.

2317 (b) (i) The holder of a registration suspended under Subsection (4)(a) may apply for the
2318 reinstatement of a registration.

2319 (ii) If the department determines that all registration requirements have been met, the
2320 department shall reinstate the registration.

2321 (5) (a) A food establishment, registered under this section, shall allow the department
2322 to have access to the food establishment to determine if the food establishment is complying
2323 with the registration requirements.

2324 (b) If a food establishment denies access for an inspection required under Subsection
2325 (5)(a), the department may suspend the food establishment's registration until the department is

2326 allowed access to the food establishment's premises.

2327 Section 67. Section ~~4-5-401~~, which is renumbered from Section 4-5-3 is renumbered
2328 and amended to read:

2329 **Part 4. Enforcement**

2330 ~~[4-5-3]~~. **4-5-401. Unlawful acts specified.**

2331 (1) A person may not:

2332 (a) manufacture, sell, deliver, hold, or offer for sale a food that is adulterated or
2333 misbranded;

2334 (b) adulterate or misbrand food;

2335 (c) except as provided in Subsection (2), distribute, in commerce, a consumer
2336 commodity inconsistent with the packaging and labeling requirements of this chapter, or the
2337 rules made under this chapter;

2338 (d) sell, deliver for sale, hold for sale, or offer for sale an article in violation of Section
2339 ~~[4-5-9]~~ 4-5-301;

2340 (e) disseminate false advertising;

2341 (f) remove or dispose of detained or embargoed food in violation of Section ~~[4-5-5]~~
2342 4-5-202;

2343 (g) adulterate, mutilate, destroy, obliterate, or remove the food label which results in
2344 the food being misbranded or adulterated while the food is for sale;

2345 (h) forge, counterfeit, simulate, or misrepresent a label or information, by the
2346 unauthorized use of a mark, stamp, tag, label, or other identification device;

2347 (i) use or reveal a method, process, or information which is protected as a trade secret;

2348 (j) operate a food establishment without a valid registration issued by the department;

2349 and

2350 (k) refuse entry to an authorized agent of the department in a food establishment as
2351 required under Section ~~[4-5-18]~~ 4-5-105.

2352 (2) Subsection (1)(c) does not apply to a person engaged in the wholesale or retail
2353 distribution of consumer commodities unless that person:

2354 (a) is engaged in the packaging or labeling of consumer commodities; or
2355 (b) prescribes or specifies the manner in which consumer commodities are packaged or
2356 labeled.

2357 Section 68. Section **4-5-402**, which is renumbered from Section 4-5-4 is renumbered
2358 and amended to read:

2359 **~~[4-5-4].~~ 4-5-402. Defenses.**

2360 No publisher, radio-broadcast licensee, or agency or medium for the dissemination of
2361 an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a
2362 false advertisement relates, shall be liable under this section by reason of the dissemination of
2363 such false advertisement, unless he has refused, on the request of the department to furnish it,
2364 the name and post-office address of the manufacturer, packer, distributor, seller, or advertising
2365 agency, residing in the state of Utah who caused him to disseminate such advertisement.

2366 Section 69. Section **4-5-501**, which is renumbered from Section 4-5-9.5 is renumbered
2367 and amended to read:

2368 **Part 5. Special Programs**

2369 **~~[4-5-9.5].~~ 4-5-501. Cottage food production operations.**

2370 (1) For purposes of this chapter:

2371 (a) "Cottage food production operation" means a person, who in the person's home,
2372 produces a food product that is not a potentially hazardous food or a food that requires
2373 time/temperature controls for safety.

2374 (b) "Home" means a primary residence:

2375 (i) occupied by the individual who is operating a cottage food production operation;

2376 and

2377 (ii) which contains:

2378 (A) a kitchen designed for common residential usage; and

2379 (B) appliances designed for common residential usage.

2380 (c) "Potentially hazardous food" or "food that requires time/temperature controls for
2381 safety":

2382 (i) means a food that requires time and or temperature control for safety to limit
2383 pathogenic microorganism growth or toxin formation and is in a form capable of supporting:
2384 (A) the rapid and progressive growth of infections or toxigenic microorganisms;
2385 (B) the growth and toxin production of *Clostridium botulinum*; or
2386 (C) in shell eggs, the growth of *Salmonella enteritidis*;
2387 (ii) includes:
2388 (A) an animal food;
2389 (B) a food of animal origin that is raw or heat treated;
2390 (C) a food of plant origin that is heat treated or consists of raw seed sprouts;
2391 (D) cut melons;
2392 (E) cut tomatoes; and
2393 (F) garlic and oil mixtures that are not acidified or otherwise modified at a food
2394 establishment in a way that results in mixtures that do not support growth as specified under
2395 Subsection (1)(c)(i); and
2396 (iii) does not include:
2397 (A) an air-cooled hard-boiled egg with shell intact;
2398 (B) a food with an actual weight or water activity value of 0.85 or less;
2399 (C) a food with pH level of 4.6 or below when measured at 24 degrees Centigrade;
2400 (D) a food, in an unopened hermetically sealed container, that is processed to achieve
2401 and maintain sterility under conditions of nonrefrigerated storage and distribution;
2402 (E) a food for which laboratory evidence demonstrates that the rapid and progressive
2403 growth of items listed in Subsection (1)(c)(i) cannot occur, such as a food that:
2404 (I) has an actual weight and a pH level that are above the levels specified under
2405 Subsections (1)(c)(iii)(B) and (C); or
2406 (II) contains a preservative or other barrier to the growth of microorganisms, or a
2407 combination of barriers that inhibit the growth of microorganisms; or
2408 (F) a food that does not support the growth of microorganisms as specified under
2409 Subsection (1)(c)(i) even though the food may contain an infectious or toxigenic

2410 microorganism or chemical or physical contaminant at a level sufficient to cause illness.

2411 (2) (a) The department shall adopt rules pursuant to Title 63G, Chapter 3, Utah

2412 Administrative Rulemaking Act, as necessary to protect public health and ensure a safe food

2413 supply.

2414 (b) Rules adopted pursuant to this Subsection (2) shall provide for:

2415 (i) the registration of cottage food production operations as food establishments under

2416 this chapter;

2417 (ii) the labeling of products from a cottage food production operation as "Home

2418 Produced"; and

2419 (iii) other exceptions to the chapter that the department determines are appropriate and

2420 that are consistent with this section.

2421 (3) Rules adopted pursuant to Subsection (2):

2422 (a) may not require:

2423 (i) the use of commercial surfaces such as stainless steel counters or cabinets;

2424 (ii) the use of a commercial grade:

2425 (A) sink;

2426 (B) dishwasher; or

2427 (C) oven;

2428 (iii) a separate kitchen for the cottage food production operation; or

2429 (iv) the submission of plans and specifications before construction of, or remodel of, a

2430 cottage food production operation; and

2431 (b) may require:

2432 (i) an inspection of a cottage food production operation:

2433 (A) prior to issuing a registration for the cottage food production operation; and

2434 (B) at other times if the department has reason to believe the cottage food production

2435 operation is operating:

2436 (I) in violation of this chapter or an administrative rule adopted pursuant to this

2437 section; or

- 2438 (II) in an unsanitary manner; and
- 2439 (ii) the use of finished and cleanable surfaces.
- 2440 (4) (a) The operator of a cottage food production operation shall:
- 2441 (i) register with the department as a cottage food production operation before operating
- 2442 as a cottage food production operation; and
- 2443 (ii) hold a valid food handler's permit.
- 2444 (b) Notwithstanding the provisions of Subsections [~~4-5-9~~] 4-5-301(1)(a) and (c), the
- 2445 department shall issue a registration to an applicant for a cottage food production operation if
- 2446 the applicant for the registration:
- 2447 (i) passes the inspection required by Subsection (3)(b);
- 2448 (ii) pays the fees required by the department; and
- 2449 (iii) meets the requirements of this section.
- 2450 (5) Notwithstanding the provisions of Section 26A-1-114, a local health department:
- 2451 (a) does not have jurisdiction to regulate the production of food at a cottage food
- 2452 production operation operating in compliance with this section, as long as the products are not
- 2453 offered to the public for consumption on the premises; and
- 2454 (b) does have jurisdiction to investigate a cottage food production operation in any
- 2455 investigation into the cause of a food born illness outbreak.
- 2456 (6) A food service establishment as defined in Section 26-15a-102 may not use a
- 2457 product produced in a cottage food production operation as an ingredient in any food that is
- 2458 prepared by the food establishment and offered by the food establishment to the public for
- 2459 consumption.
- 2460 Section 70. Section ~~4-5-502~~, which is renumbered from Section 4-5-20 is renumbered
- 2461 and amended to read:
- 2462 ~~[4-5-20]~~. **4-5-502. Food designated as raw honey.**
- 2463 (1) As used in this section:
- 2464 (a) "Honey" means the natural sweet substance produced by honeybees from nectar of
- 2465 plants or from secretions of living parts of plants that the bees collect, transform by combining

2466 with specific substances of their own, then deposit, dehydrate, store, and leave in the
2467 honeycomb to ripen and mature.

2468 (b) "Raw honey" means honey:

2469 (i) as it exists in the beehive or as obtained by extraction, settling, or straining;

2470 (ii) that is minimally processed; and

2471 (iii) that is not pasteurized.

2472 (2) Honey that is produced, packed, repacked, distributed, or sold in this state may only
2473 be labeled and designated as raw honey if it meets:

2474 (a) the definition of raw honey in this section; and

2475 (b) any additional requirements imposed by the department by rule.

2476 (3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2477 Administrative Rulemaking Act, to establish labeling requirements consistent with the
2478 provisions of this section.

2479 Section 71. Section **4-7-101**, which is renumbered from Section 4-7-1 is renumbered
2480 and amended to read:

2481 **CHAPTER 7. LIVESTOCK DEALERS' ACT**

2482 **[4-7-1]. 4-7-101. Title.**

2483 This chapter is known as the "Livestock Dealers' Act."

2484 Section 72. Section **4-7-102**, which is renumbered from Section 4-7-2 is renumbered
2485 and amended to read:

2486 **[4-7-2]. 4-7-102. Purpose declaration.**

2487 The Legislature finds ~~[and declares]~~ that the public interest requires regulation of the
2488 sale of livestock between the producer and ~~[persons who purchase]~~ a person who purchases
2489 livestock for resale to protect ~~[producers]~~ the producer from unwarranted hazard and loss in the
2490 sale of ~~[their]~~ livestock.

2491 Section 73. Section **4-7-103**, which is renumbered from Section 4-7-3 is renumbered
2492 and amended to read:

2493 **[4-7-3]. 4-7-103. Definitions.**

2494 As used in this chapter:

2495 (1) "Agent" [~~or "broker"~~] means a person who, on behalf of a dealer, purchaser, or
2496 livestock market, as defined in Section [~~4-30-1~~] 4-30-102, solicits or negotiates the
2497 consignment or purchase of livestock.

2498 (2) "Consignor" means a person who ships or delivers livestock to a dealer for handling
2499 or sale.

2500 (3) (a) "Dealer" means a person who:

2501 (i) receives livestock from a person for sale on commission;

2502 (ii) is entrusted with the possession, management, control, or disposal of livestock for
2503 the account of that person; [~~and~~] or

2504 (iii) negotiates price, determines a delivery date, and receives money on behalf of a
2505 livestock producer.

2506 (b) "Dealer" includes:

2507 (i) a livestock dealer[-]; and

2508 (ii) a person who owns or leases a feedlot.

2509 [~~(c) "Dealer" includes a person who owns or leases a feedlot.~~]

2510 (4) (a) "Immediate resale" means the resale of livestock within 60 days of purchase.

2511 (b) "Immediate resale" does not include the resale of livestock culled within 60 days
2512 that were purchased for feeding or replacement.

2513 (5) "Livestock" means cattle, swine, equines, sheep, camelidae, ratites, bison, goats,
2514 and domesticated elk as defined in Section 4-39-102.

2515 (6) "Livestock dealer" means a person engaged in the business of purchasing livestock
2516 for immediate resale or interstate shipment for immediate resale.

2517 (7) "Producer" means a person who is primarily engaged in the business of raising
2518 livestock for profit.

2519 Section 74. Section ~~4-7-104~~, which is renumbered from Section 4-7-4 is renumbered
2520 and amended to read:

2521 [~~4-7-4~~]. **4-7-104. Unlawful to act as an agent or dealer without license --**

Exception.

Except as exempted by Section ~~[4-7-5]~~ 4-7-105, no person may act as an agent~~[-broker,]~~ or dealer in this state without being licensed under this chapter.

Section 75. Section **4-7-105**, which is renumbered from Section 4-7-5 is renumbered and amended to read:

~~[4-7-5].~~ **4-7-105. Exemptions.**

The surety and licensing requirements of this chapter do not apply to:

(1) a livestock market that is bonded as required by laws of the United States and Title 4, Chapter 30, Livestock Markets; or

(2) a cooperative incorporated under the laws of this state or another state, except as to the receipt of livestock from a nonmember producer.

Section 76. Section **4-7-106**, which is renumbered from Section 4-7-6 is renumbered and amended to read:

~~[4-7-6].~~ **4-7-106. Licenses -- Applications.**

Application for an agent's~~[-broker's,]~~ or dealer's license shall be made to the department upon forms prescribed and furnished by the department~~[-The]~~, and the application shall state:

(1) the applicant's name, principal address in this state, and date of birth;

(2) the applicant's principal address in any location outside Utah;

(3) the name and principal address of the person authorized by the applicant to accept service of process in this state on behalf of the applicant during the licensure period;

(4) the name and principal address of the applicant's surety if the application is for a dealer's license;

(5) a schedule of the commissions, fees, and other charges the applicant intends to collect for services during the period of licensure;

(6) the name and address of each principal the applicant intends to represent during the period of licensure; and

(7) any other information that the department may require by rule.

Section 77. Section **4-7-107**, which is renumbered from Section 4-7-7 is renumbered

2550 and amended to read:

2551 ~~[4-7-7]~~. **4-7-107. Issuance of dealer and agent licenses -- Fees -- Deposit of**
2552 **bond or trust agreement -- Renewal -- Refusal to issue or renew license.**

2553 (1) The commissioner, if satisfied that the convenience and necessity of the industry
2554 and the public will be served, shall issue a license to a dealer within 30 days after:

2555 (a) receipt of a proper application and financial statement;

2556 (b) payment of a license fee determined by the department pursuant to Subsection

2557 ~~[4-2-2]~~ 4-2-103(2); and

2558 (c) the posting of a corporate surety bond, an irrevocable letter of credit, a trust fund
2559 agreement, or other security required by Section ~~[4-7-8]~~ 4-7-108.

2560 (2) Upon proper application and payment of the license fee determined by the
2561 department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2), the commissioner shall issue a license to
2562 conduct business as an agent ~~[or broker]~~.

2563 (3) A license issued under this chapter:

2564 (a) entitles the applicant to conduct the business described in the application through
2565 December 31 of the year in which the license is issued, subject to suspension or revocation for
2566 cause; and

2567 (b) is renewable for a period of one year upon:

2568 (i) receipt of a proper renewal application; and

2569 (ii) payment of an annual license renewal fee determined by the department pursuant to
2570 Subsection ~~[4-2-2]~~ 4-2-103(2).

2571 (4) A license issued under this chapter shall at all times remain the property of the
2572 state, and the licensee is entitled to ~~[its possession]~~ the license only for the duration of the
2573 license.

2574 (5) The department shall refuse to issue or renew a license if the applicant:

2575 (a) cannot produce a financial statement with sufficient assets to justify the amount of
2576 business the applicant contemplates, unless the application is for ~~[a broker's or]~~ an agent's
2577 license;

- 2578 (b) is in violation of this chapter or rules adopted under this chapter;
- 2579 (c) has made a false or misleading statement as to the health or physical condition of
- 2580 livestock in connection with the buying, receiving, selling, exchanging, soliciting or
- 2581 negotiating the sale of, or the weighing of livestock;
- 2582 (d) has failed to keep records of purchases and sales or refused to grant inspection of
- 2583 those records by authorized agents of the department;
- 2584 (e) has failed to comply with a lawful order of the department;
- 2585 (f) has been found by the department to have failed to pay, without reasonable cause,
- 2586 obligations incurred in connection with the livestock transaction;
- 2587 (g) has been suspended by order of the secretary of agriculture of the United States
- 2588 Department of Agriculture under provisions of the Packers and Stockyards Act, 1921, 7 U.S.C.
- 2589 Sec. 181 et seq.;
- 2590 (h) employs a person required to be licensed whose license cannot be renewed or
- 2591 whose license is under suspension or revocation by the department or the United States
- 2592 Department of Agriculture; or
- 2593 (i) has any unsatisfied civil judgments related to an activity for which licensing is
- 2594 required by this chapter.
- 2595 (6) An applicant who has been refused a license or license renewal may not apply again
- 2596 for one year following refusal unless the department determines that the applicant is in
- 2597 compliance with this chapter.
- 2598 Section 78. Section **4-7-108**, which is renumbered from Section 4-7-8 is renumbered
- 2599 and amended to read:
- 2600 **[4-7-8]. 4-7-108. Applicant for dealer's license to post security -- Increase in**
- 2601 **amount of security posted -- Action on security authorized -- Duties of commissioner --**
- 2602 **Option to require posting new security if action filed -- Effect of failure to post new**
- 2603 **security -- Commissioner's authority to call bond if not renewed.**
- 2604 (1) (a) Before a license is issued to a dealer, the applicant shall post a corporate surety
- 2605 bond, irrevocable letter of credit, trust fund agreement, or any other security agreement

2606 considered reasonable in an amount not less than \$10,000 [~~not more than \$200,000~~], as
2607 determined by the commissioner or as required by the Packers and Stockyards Act, 1921, 7
2608 U.S.C. [~~Section~~] Sec. 181 et seq.

2609 (b) Any bond shall be written by a surety licensed under the laws of Utah and name the
2610 state, as obligee, for the use and benefit of producers.

2611 (c) The bond or other security posted shall be conditioned upon:

2612 (i) the faithful performance of contracts and the faithful accounting for and handling of
2613 livestock consigned to the dealer;

2614 (ii) the performance of the obligations imposed under this chapter; and

2615 (iii) the payment of court costs and [~~attorney's~~] attorney fees to the prevailing party
2616 incident to any suit upon the bond or other security posted.

2617 (2) (a) The commissioner may require a dealer who is issued a license to increase the
2618 amount of the bond or other security posted under Subsection (1)(a) if the commissioner
2619 determines the bond or other security posted is inadequate to secure performance of the dealer's
2620 obligations.

2621 (b) The commissioner shall notify the Packers and Stockyards Administration of an
2622 increase made under Subsection (2)(a).

2623 (c) The commissioner may suspend a dealer's license for failure to comply with
2624 Subsection (2)(a) within 10 days after notice is given to the dealer.

2625 (3) A consignor claiming damages, as a result of fraud, deceit, or willful negligence by
2626 a dealer or as a result of the dealer's failure to comply with this chapter, may bring an action
2627 upon the bond or other security posted for damages against both the principal and surety.

2628 (4) (a) If it is reported to the department by a consignor that a dealer has failed to pay in
2629 a timely manner for livestock received for sale, the commissioner shall:

2630 (i) ascertain the name and address of each consignor who is a creditor of the dealer;
2631 and

2632 (ii) request a verified written statement setting forth the amount claimed due from the
2633 dealer.

(b) Upon receipt of the verified statements, the commissioner shall bring an action upon the bond or other security posted on behalf of the consignors who claim amounts due from the dealer.

(5) (a) If an action is filed upon the bond or other security posted, the commissioner may require the filing of new security.

(b) Immediately upon recovery in the action described in Subsection (5)(a), the commissioner shall require the dealer to file a new bond or other security.

~~(c) [Failure, in either case,]~~ (i) The commissioner may suspend a license if a dealer fails to file the bond or other security within 10 days after the commissioner's demand ~~[is cause for suspension of the license until a new bond or other security is filed].~~

(ii) A suspension described in Subsection (5)(c)(i) shall remain in effect until the dealer files a new bond or other security.

(d) If the bond or other security posted under this section is not renewed within 10 days of its expiration date, unless the commissioner states in writing that this is unnecessary, the commissioner may obtain, after a hearing, the full amount of the bond or other security before it expires.

Section 79. Section ~~4-7-109~~, which is renumbered from Section 4-7-9 is renumbered and amended to read:

~~[4-7-9].~~ **4-7-109. Dealers -- Records mandated -- Records subject to inspection.**

(1) A dealer who receives livestock for sale or consignment shall promptly record:

(a) the name and address of the consignor;

(b) the date received;

(c) the condition and quantity upon arrival;

(d) the date of sale for account of the producer-consignor;

(e) the sale price;

(f) an itemized statement of the charges to be paid by the producer-consignor;

(g) the individual or group identification of the livestock;

2662 (h) the nature and amount of any claims the dealer has against third persons for
2663 overcharges or damages; and

2664 (i) if the dealer has a direct or indirect financial interest in the business of the
2665 purchaser, or, if the purchaser has a similar financial interest in the business of the dealer, the
2666 name and address of the purchaser.

2667 (2) (a) The dealer shall provide a copy of the livestock receipt to the producer
2668 immediately upon delivery of the product.

2669 (b) The records required by this section shall be retained for a period of one year
2670 following the date of consignment and shall be available during business hours for inspection
2671 by the department.

2672 (c) A consignor involved in a consignment subject to inquiry may inspect relevant
2673 records.

2674 (3) (a) A dealer shall file an annual report of the records required under Subsection (1)
2675 with the department on a form prescribed and furnished by the department.

2676 (b) The dealer shall file the report by April 15 following the end of a calendar year, or
2677 if the records are kept on a fiscal year basis, by 90 days after the close of the fiscal year.

2678 (c) The commissioner may, for good cause shown or by the commissioner's own
2679 motion, grant an extension to the filing deadline under Subsection (3)(b).

2680 (d) For purposes of this Subsection (3), "dealer" does not include a packer buyer
2681 registered to purchase livestock for slaughter only.

2682 (e) The department shall accept reports as required by the Packers and Stockyards
2683 Administration for livestock under the Packers and Stockyards Act, [~~9 C.F.R. Sec. 201.97~~]
2684 1921, 7 U.S.C. Sec. 181, et seq.

2685 (f) The reports required under this Subsection (3) may be subject to audit and establish
2686 the basis for bond adequacy.

2687 Section 80. Section ~~4-7-110~~, which is renumbered from Section 4-7-10 is renumbered
2688 and amended to read:

2689 ~~[4-7-10].~~ **4-7-110. Livestock purchases.**

2690 Livestock purchases shall be paid for as provided in the Packers and Stockyards Act,
2691 1921, 7 U.S.C. Sec. 181, et seq.

2692 Section 81. Section **4-7-201**, which is renumbered from Section 4-7-11 is renumbered
2693 and amended to read:

2694 **Part 2. Enforcement, Penalties, and Prohibitions**

2695 ~~[4-7-11]~~. **4-7-201. Department authority -- Examination and investigation of**
2696 **transactions -- Notice of agency action upon probable cause -- Settlement of disputes --**
2697 **Cease and desist order -- Enforcement -- Review.**

2698 (1) For the purpose of enforcing this chapter the department may, upon ~~[its]~~ the
2699 department's own motion, or shall, upon the verified complaint of an interested consignor,
2700 investigate, examine, or inspect any transaction involving:

2701 (a) the solicitation, receipt, sale, or attempted sale of livestock by a dealer or person
2702 assuming to act as a dealer;

2703 (b) the failure to make a correct account of sales;

2704 (c) the intentional making of a false statement about market conditions or the condition
2705 or quantity of livestock consigned;

2706 (d) the failure to remit payment in a timely manner to the consignor as required by
2707 contract or by this chapter;

2708 (e) any other consignment transaction alleged to have resulted in damage to the
2709 consignor; or

2710 (f) any dealer or agent with an unsatisfied judgment by a civil court related to an
2711 activity for which licensing is required by this chapter.

2712 (2) (a) After investigation upon ~~[its]~~ the department's own motion, if the department
2713 determines that probable cause exists to believe that a dealer has engaged₂ or is engaging₂ in
2714 acts that violate this chapter, the department shall issue a notice of agency action.

2715 (b) (i) Upon the receipt of a verified complaint, the department shall undertake to effect
2716 a settlement between the consignor and the dealer.

2717 (ii) If a settlement cannot be effected, the department shall treat the verified complaint

2718 as a request for agency action.

2719 (3) (a) In a hearing upon a verified complaint, if the commissioner, or hearing officer
2720 designated by the commissioner, determines by a preponderance of the evidence that the person
2721 complained of has violated this chapter and that the violation has resulted in damage to the
2722 complainant, the commissioner or officer shall:

2723 (i) prepare written findings of fact detailing the findings and fixing the amount of
2724 damage suffered; and

2725 (ii) order the defendant to pay damages.

2726 (b) In a hearing initiated upon the department's own motion, if the commissioner or
2727 hearing officer determines by a preponderance of the evidence that the person complained of by
2728 the department has engaged [in], or is engaging, in [] acts that violate this chapter, the
2729 commissioner or officer shall prepare written findings of fact and an order requiring the person
2730 to cease and desist from the activity.

2731 (4) The department may petition any court having jurisdiction in the county where the
2732 action complained of occurred to enforce the department's order.

2733 (5) Any dealer aggrieved by an order issued under this section may obtain judicial
2734 review of the order.

2735 (6) (a) The department may not act upon a verified complaint submitted to the
2736 department more than six months after the consignor allegedly suffered damage.

2737 (b) A livestock claim shall be made in writing within 120 days from the date of the
2738 transaction.

2739 Section 82. Section **4-7-202**, which is renumbered from Section 4-7-12 is renumbered
2740 and amended to read:

2741 ~~[4-7-12]~~. **4-7-202. Sale of livestock -- Prima facie evidence of fraud.**

2742 The following constitutes prima facie evidence of fraud in the sale of livestock:

2743 (1) any sale of livestock at less than market price by a dealer to a person with whom
2744 the dealer has a financial interest; or

2745 (2) any sale out of which the dealer receives part of the sale price other than the agreed

2746 commission or other agreed charges.

2747 Section 83. Section ~~4-7-203~~, which is renumbered from Section 4-7-13 is renumbered
2748 and amended to read:

2749 ~~[4-7-13].~~ **4-7-203. Suspension or revocation -- Grounds -- Notice to**
2750 **producers.**

2751 (1) The department may suspend or revoke the license of and suspend or refuse all
2752 department services to a person licensed under this chapter if the department finds that the
2753 licensee has:

2754 (a) provided false information when making an application for a license;

2755 (b) failed to comply with this chapter or rules adopted under this chapter; or

2756 (c) engaged in any willful conduct that is detrimental to a producer.

2757 (2) If a license is revoked pursuant to a hearing and the decision is final, or an
2758 injunction is imposed by a civil court, the department shall, by publication in a newspaper of
2759 [a] general circulation in the area, notify producers of livestock in the area in which the
2760 licensee operated that the license has been revoked or a department action has been taken.

2761 Section 84. Section ~~4-7-204~~, which is renumbered from Section 4-7-13.5 is
2762 renumbered and amended to read:

2763 ~~[4-7-13.5].~~ **4-7-204. Suspension of license -- Opportunity for hearing.**

2764 (1) ~~[A license may be suspended]~~ The department may suspend a license immediately
2765 if:

2766 (a) an emergency exists ~~[which]~~ that presents a clear and present danger to the public
2767 health;

2768 (b) an inspection or sampling is refused; or

2769 (c) the licensee's bond has been revoked or cancelled.

2770 (2) The department shall immediately notify the person of the suspension in writing
2771 and provide an opportunity for hearing without delay.

2772 Section 85. Section ~~4-7-205~~, which is renumbered from Section 4-7-14 is renumbered
2773 and amended to read:

~~[4-7-14].~~ **4-7-205. Prohibited acts.**

(1) A person licensed under this chapter may not:

(a) make false charges incident to the sale of livestock;

(b) ~~[willfully]~~ willfully fail to comply with the requirements of Section ~~[4-7-9 or 4-7-10]~~ 4-7-109 or 4-7-110;

(c) fail to file a schedule of commissions and charges;

(d) consign livestock without the consent of the producer-consignor for the purpose of charging more than one commission;

(e) make any false statement to the detriment of the producer regarding current market conditions for livestock or about the condition or quantity of the livestock consigned for the account of the producer;

(f) engage in fraud or misrepresentation in the procurement or attempted procurement of a license; or

(g) act as a dealer or agent and, with intent to defraud, make, draw, utter, or deliver any check, draft, or order for the payment of money from any bank or other depository to the owner for the purchase price of livestock, when at the time of the making, drawing, uttering, or delivery the maker or drawer does not have sufficient funds in or credit with the bank or other depository for the payment of the check, draft, or order in full upon its presentation.

(2) (a) The making, drawing, uttering, or delivery of a check, draft, or order in the circumstances specified in this section shall be evidence of an intent to defraud.

(b) As used in this section, "credit" means an arrangement or understanding with the bank or depository for the payment of the check, draft, or order.

Section 86. Section **4-8-101**, which is renumbered from Section 4-8-1 is renumbered and amended to read:

CHAPTER 8. AGRICULTURAL FAIR TRADE ACT

~~[4-8-1].~~ **4-8-101. Title.**

This chapter ~~[shall be known and may be cited]~~ is known as the "Agricultural Fair Trade Act."

2802 Section 87. Section **4-8-102**, which is renumbered from Section 4-8-2 is renumbered
2803 and amended to read:

2804 **~~[4-8-2].~~ 4-8-102. Purpose declaration.**

2805 (1) The Legislature finds and declares that in order to preserve the agricultural industry
2806 of this state it is necessary to protect and improve the economic status of persons engaged in
2807 the production of products of agriculture. ~~[To effectuate this policy]~~

2808 (2) To carry out the policy described in Subsection (1), the Legislature determines it
2809 necessary to regulate the production and marketing of such products and to prohibit unfair and
2810 injurious trade practices. ~~[To that end this]~~

2811 (3) This chapter shall be liberally construed.

2812 Section 88. Section **4-8-103**, which is renumbered from Section 4-8-3 is renumbered
2813 and amended to read:

2814 **~~[4-8-3].~~ 4-8-103. Definition.**

2815 As used in this chapter, "products of agriculture" ~~[mean]~~ means any product useful to
2816 the human species ~~[which]~~ that results from the application of the science and art of the
2817 production of plants, minerals, and animals.

2818 Section 89. Section **4-8-104**, which is renumbered from Section 4-8-4 is renumbered
2819 and amended to read:

2820 **~~[4-8-4].~~ 4-8-104. Department functions, powers, and duties.**

2821 The department ~~[has and]~~ shall exercise the following functions, powers, and duties, in
2822 addition to those specified in Chapter 1, Short Title and General Provisions:

2823 (1) perform general supervision over the marketing, sale, trade, advertising, storage,
2824 and transportation practices, used in buying and selling products of agriculture in Utah;

2825 (2) conduct and publish surveys and statistical analyses with ~~[its]~~ the department's own
2826 resources or with the resources of others through contract, regarding:

2827 (a) the cost of production for products of agriculture, including transportation,
2828 processing, storage, advertising, and marketing costs; ~~[regarding]~~

2829 (b) market locations, demands, and prices for such products; and ~~[regarding]~~

2830 (c) market forecasts;

2831 (3) assist and encourage producers of products of agriculture in controlling current and
2832 prospective production and market deliveries in order to stabilize product prices at prices
2833 [~~which~~] that assure reasonable profits for producers and at the same time ensure adequate
2834 market supplies; [~~and~~]

2835 (4) actively solicit input from the public and from interested groups or associations,
2836 through public hearings or otherwise, to assist in making fair determinations with respect to the
2837 production, marketing, and consumption of products of agriculture[~~;~~];

2838 (5) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
2839 Rulemaking Act, in regard to "Utah's Own," a program dedicated to the promotion of locally
2840 produced products of agriculture.

2841 Section 90. Section **4-8-105**, which is renumbered from Section 4-8-5 is renumbered
2842 and amended to read:

2843 ~~[4-8-5].~~ **4-8-105. Unlawful acts specified.**

2844 [~~It is unlawful for any~~] A person engaged in the production, processing, handling,
2845 marketing, sale or distribution of products of agriculture [~~to~~] may not:

2846 (1) discriminate in price between two or more producers with respect to products of
2847 agriculture of like grade and quality;

2848 (2) use any brand, label, container, or designation on products of agriculture not
2849 authorized by the department;

2850 (3) promote or advertise the price of any product of agriculture [~~which~~] that is required
2851 to be graded without displaying the grade of such product with prominence equal to that of the
2852 price; or

2853 (4) make or permit the use of any false or misleading statement on any label or stencil
2854 affixed to a container or package containing products of agriculture or in any promotion or
2855 advertisement of such products.

2856 Section 91. Section **4-8-106**, which is renumbered from Section 4-8-6 is renumbered
2857 and amended to read:

2858 ~~[4-8-6].~~ **4-8-106. Procedure for enforcement -- Notice of agency action --**
2859 **Cease and desist order -- Enforcement -- Judicial review.**

2860 (1) (a) Whenever the department has reason to believe that a person has, or is, engaged
2861 in[,] the violation of this chapter, it shall issue a notice of agency action.

2862 (b) If the commissioner, or a hearing officer designated by the commissioner,
2863 determines by a preponderance of the evidence that any person named in the complaint has
2864 engaged, or is engaging, in an act that violates this chapter, the officer shall:

2865 (i) prepare written findings of fact; and

2866 (ii) issue an order requiring the person to cease and desist from the illegal activity.

2867 (2) The department may petition any court of competent jurisdiction for enforcement of
2868 its cease and desist order.

2869 (3) Any person who is subject to a cease and desist order may obtain judicial review.

2870 (4) The attorney general's office shall represent the department in any original action or
2871 appeal begun under this section.

2872 Section 92. Section **4-8-107**, which is renumbered from Section 4-8-7 is renumbered
2873 and amended to read:

2874 ~~[4-8-7].~~ **4-8-107. Defense to claim of illegal activity.**

2875 No person who acts in compliance with any rule adopted under authority of this chapter
2876 shall be considered to be engaged in any illegal conspiracy or combination in restraint of trade
2877 or to be acting in furtherance of any illegal purpose.

2878 Section 93. Section **4-9-101** is enacted to read:

2879 **CHAPTER 9. WEIGHTS AND MEASURES**

2880 **4-9-101. Title.**

2881 This chapter is known as "Weights and Measures."

2882 Section 94. Section **4-9-102**, which is renumbered from Section 4-9-1 is renumbered
2883 and amended to read:

2884 ~~[4-9-1].~~ **4-9-102. Definitions.**

2885 As used in this chapter:

(1) "Correct"[~~, when used in connection with weights and measures,~~] means conformance to applicable requirements of this chapter.

(2) "Package" means a commodity put up or packaged before sale in either wholesale or retail sale units.

(3) "Primary standards" [~~mean~~] means the physical standards of the state, described in Section [~~4-9-4~~] 4-9-105, which are the legal reference from which all other standards and weights and measures are derived.

(4) "Sale from bulk" means the sale of commodities, when the quantity is determined at the time of sale.

(5) "Secondary standards" means a physical standard which is traceable to primary standards through comparisons, using acceptable laboratory procedures.

(6) "Weighing and measuring" means the use of weights and measures.

(7) "Weight" means net weight, unless the label declares that the product is sold by drained weight, in which case[;] "weight" means net drained weight.

(8) "Weights and measures" means [~~weights and measures, and~~] the instruments or devices used for weighing or measuring, including an appliance or accessory associated with the instrument or device.

(9) "Weights and measures registration" means the issuance of a certificate by the commissioner to a weights and measures user.

(10) "Weights and measures user" means a person who uses weights and measures in trade or commerce.

Section 95. Section ~~4-9-103~~, which is renumbered from Section 4-9-2 is renumbered and amended to read:

~~[4-9-2].~~ **4-9-103. Authority to make rules.**

The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce [~~such~~] rules [~~as in its judgment are~~] necessary to administer and enforce this chapter.

Section 96. Section ~~4-9-104~~, which is renumbered from Section 4-9-3 is renumbered

2914 and amended to read:

2915 ~~[4-9-3].~~ **4-9-104. Weights and measures -- Systems used -- Basic units,**
2916 **tables, and equivalents as published by National Institute of Standards and Technology.**

2917 (1) The department shall use:

2918 (a) the same system of weights and measures that is customarily used in the United
2919 States~~;~~; and

2920 (b) the metric system of weights and measures.

2921 (2) Either system under Subsection (1) may be used for commercial purposes in the
2922 state.

2923 (3) The definitions of basic units of weight and measure, the tables of weight and
2924 measure, and the weights and measures equivalents published by the National Institute of
2925 Standards and Technology~~;~~ shall determine the weights and measures systems used within the
2926 state.

2927 Section 97. Section **4-9-105**, which is renumbered from Section 4-9-4 is renumbered
2928 and amended to read:

2929 ~~[4-9-4].~~ **4-9-105. Weights and measures -- Primary state standards --**
2930 **Secondary state standards -- Verification.**

2931 (1) Weights and measures that are traceable to the United States prototype standards
2932 supplied by the federal government, or approved as being satisfactory by the National Institute
2933 of Standards and Technology, shall be the state primary standards, and shall be maintained in
2934 the calibration prescribed by the National Institute of Standards and Technology.

2935 (2) Secondary standards may be prescribed by the department and shall be verified
2936 upon their initial receipt, and as often after initial receipt as is considered necessary by the
2937 department.

2938 Section 98. Section **4-9-106**, which is renumbered from Section 4-9-5 is renumbered
2939 and amended to read:

2940 ~~[4-9-5].~~ **4-9-106. Weights and measures -- Specifications, tolerances, and**
2941 **technical data published in National Institute of Standards and Technology Handbook**

2942 **govern.**

2943 Unless modified by the department, Handbook 44, Specifications, Tolerances, and
2944 Other Technical Requirements for Weighing and Measuring Devices, National Institute of
2945 Standards and Technology, adopted by the National Conference on Weights and Measures,
2946 including supplements or revisions to Handbook 44, shall determine the specifications,
2947 tolerances, and other technical requirements for devices used for:

- 2948 (1) commercial weighing and measuring;
2949 (2) law enforcement;
2950 (3) data gathering; and
2951 (4) other weighing and measuring purposes.

2952 Section 99. Section ~~4-9-107~~, which is renumbered from Section 4-9-5.2 is renumbered
2953 and amended to read:

2954 ~~[4-9-5.2].~~ **4-9-107. Adopting uniform packaging and labeling regulation.**

2955 Unless modified by the department, the Uniform Packaging and Labeling Regulation,
2956 adopted by the National Conference on Weights and Measures in Handbook 130, Uniform
2957 Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, National
2958 Institute of Standards and Technology, shall apply to packaging and labeling in the state.

2959 Section 100. Section ~~4-9-108~~, which is renumbered from Section 4-9-5.3 is
2960 renumbered and amended to read:

2961 ~~[4-9-5.3].~~ **4-9-108. Adopting uniform regulation for the method of sale of**
2962 **commodities.**

2963 Unless modified by the department, the Uniform Regulation for the Method of Sale of
2964 Commodities, adopted by the National Conference on Weights and Measures, in Handbook
2965 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality,
2966 National Institute of Standards and Technology, shall apply to the method of sale of
2967 commodities in the state.

2968 Section 101. Section ~~4-9-109~~, which is renumbered from Section 4-9-5.4 is
2969 renumbered and amended to read:

2970 ~~[4-9-5.4].~~ **4-9-109. Adopting uniform regulation for the voluntary registration**
2971 **of servicepersons and service agencies for commercial weighing and measuring devices.**

2972 Unless modified by the department, the Uniform Regulation for the Voluntary
2973 Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring
2974 Devices, adopted by the National Conference on Weights and Measures in Handbook 130,
2975 Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality,
2976 National Institute of Standards and Technology, shall apply to the registration of servicepersons
2977 and service agencies in the state.

2978 Section 102. Section **4-9-110**, which is renumbered from Section 4-9-6 is renumbered
2979 and amended to read:

2980 ~~[4-9-6].~~ **4-9-110. Department duties -- Seizure of incorrect weights and**
2981 **measures.**

2982 (1) The department may:

2983 (a) establish weights and measures standards, specifications, and tolerances for:

2984 (i) all commodities;

2985 (ii) the fill for any commodity contained in a package;

2986 (iii) labels or labeling of a commodity; and

2987 (iv) weights and measures used commercially;

2988 (b) inspect and test weights and measures kept, offered, or exposed for sale to
2989 determine if they are correct;

2990 (c) inspect and test weights and measures commercially used to determine if they are
2991 correct;

2992 (d) test all weights and measures used to check the receipt or disbursement of supplies
2993 used by a state agency or institution funded by the state;

2994 (e) in accordance with sampling procedures recognized and designated in Handbook
2995 133, Checking the Net Contents of Packaged Goods, National Institute of Standards and
2996 Technology, inspect and test any packaged commodity kept, offered, or exposed for sale, sold,
2997 or in the process of delivery, to determine if the package contains the amount represented;

2998 (f) determine the appropriate term or unit of weight or measure to be used for container
2999 sizes, if the department determines that an existing practice of declaring the quantity by weight,
3000 measure, count, or any combination of these practices, hinders value comparisons by
3001 consumers;

3002 (g) approve correct weights and measures and reject and mark as "rejected," weights
3003 and measures that are incorrect;

3004 (h) allow reasonable variations from a stated weight or measure caused by loss or gain
3005 due to:

3006 (i) moisture during the course of acceptable distribution practices; or

3007 (ii) unavoidable deviations in acceptable manufacturing practices;

3008 (i) grant an exemption from the requirements of this chapter or from any rule
3009 promulgated under this chapter, when the department determines that the exemption is
3010 necessary for the maintenance of acceptable commercial practices;

3011 (j) maintain on file, for public inspection, a copy of each handbook prepared by the
3012 National Institute of Standards and Technology [~~which~~ that] is used to enforce this chapter; and

3013 (k) establish and charge fees as authorized under Subsection [~~4-2-2~~] 4-2-103(2) for the
3014 inspection of weights and measures.

3015 (2) The department may seize weights and measures that are:

3016 (a) incorrect and are not corrected within a reasonable time specified by the
3017 department; or

3018 (b) used or disposed of in a manner not authorized by the department.

3019 Section 103. Section ~~4-9-111~~, which is renumbered from Section 4-9-7 is renumbered
3020 and amended to read:

3021 ~~[4-9-7]~~. **4-9-111. Enforcement powers of department.**

3022 (1) For the purpose of enforcing this chapter, the department may:

3023 (a) enter any commercial premises [~~open to the public~~] during normal working hours
3024 after the presentation of credentials;

3025 (b) issue in writing a "stop-use, hold, or removal order" with respect to any weights or

3026 measures commercially used or a "stop sale, use, or removal order" with respect to any
3027 packaged commodity or bulk commodity offered for sale;

3028 (c) seize as evidence, without formal warrant, any incorrect or unapproved weight,
3029 measure, package, or commodity offered for sale or sold in violation of this chapter;

3030 (d) (i) seek an order of seizure or condemnation of any weight, measure, package, or
3031 sale from bulk that violates this chapter; or

3032 (ii) upon proper grounds, obtain a temporary restraining order or permanent injunction
3033 to prevent a violation of this chapter; and

3034 (e) stop any commercial vehicle and after presenting credentials:

3035 (i) inspect its contents;

3036 (ii) require the person in charge of the vehicle to produce any documents in his
3037 possession concerning the contents; or

3038 (iii) require the person in charge of the vehicle to proceed with the vehicle to some
3039 specified place for inspection.

3040 (2) If an order has been issued under Subsection (1)(b), the weights, measures, or
3041 commodities subject to the order may not be used, moved, or offered for sale until the
3042 department issues a written release.

3043 (3) ~~[No]~~ A bond ~~[shall]~~ may not be required of the department in any injunctive
3044 proceeding brought under this section.

3045 Section 104. Section **4-9-112**, which is renumbered from Section 4-9-8 is renumbered
3046 and amended to read:

3047 **~~[4-9-8].~~ 4-9-112. Sale of commodities in liquid form -- Sale of commodities**
3048 **in nonliquid form -- Requirements.**

3049 (1) Commodities in liquid form shall be sold by liquid measure or by weight.

3050 (2) Commodities not in liquid form shall be sold only by weight, measure, or by count,
3051 ~~[so]~~ as long as the method of sale provides accurate quantity information.

3052 Section 105. Section **4-9-113**, which is renumbered from Section 4-9-9 is renumbered
3053 and amended to read:

[4-9-9]. 4-9-113. Bulk sales -- Information furnished to purchaser.

Whenever the quantity is determined solely by the seller, in the absence of the buyer, all bulk sales of heating fuel and other bulk sales as determined by the department shall be accompanied by a delivery ticket containing the following information:

(1) the name and address of the vendor and purchaser;

(2) the date delivered;

(3) the quantity delivered and the quantity upon which the price is based, if different from the delivered quantity;

(4) a description of the bulk material sold, including any quality representation made in connection with the sale; and

(5) the number of individually wrapped packages.

Section 106. Section **4-9-114**, which is renumbered from Section 4-9-10 is renumbered and amended to read:

[4-9-10]. 4-9-114. Packaged commodity sales -- Labeling information specified -- When price per single unit of weight to be displayed.

(1) Any packaged commodity offered for sale shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

(a) the identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;

(b) the quantity of contents in terms of weight, measure, or count; and

(c) the name and place of business of the manufacturer, packer, or distributor, if the packaged commodity is offered for sale, or sold other than on the premises where packaged.

(2) Any package ~~[which]~~ that is one of a lot containing random weights of the same commodity and bearing the total sales price of the package shall, in addition to compliance with Subsection (1) ~~[of this section]~~, bear on the outside of the package a definite, plain, and conspicuous declaration of the price per single unit of weight.

Section 107. Section **4-9-115**, which is renumbered from Section 4-9-11 is renumbered and amended to read:

[~~4-9-11~~]. 4-9-115. Advertisement of packaged commodity sales --

Requirements.

(1) An advertisement [~~which~~] that promotes a packaged commodity with the retail price stated shall plainly and conspicuously advertise the quantity required to appear on the package.

(2) If a dual quantity declaration is required by law, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure [~~need~~] shall appear in the advertisement.

Section 108. Section ~~4-9-116~~, which is renumbered from Section 4-9-12 is renumbered and amended to read:

[~~4-9-12~~]. 4-9-116. Unlawful acts specified.

A person may not:

(1) sell, offer, or present for sale a commodity whose weight and measure is less than the weight and measure represented as being sold, offered, or exposed for sale;

(2) misrepresent the price of a commodity sold, advertised, exposed, or offered for sale by weight, measure, or count, or [~~to~~] represent the price in a manner that misleads or deceives a person;

(3) use or possess an incorrect weight or measure in commerce;

(4) remove a tag, seal, or mark from a weight or measure without specific written authorization from the department;

(5) hinder or obstruct an agent of the department dealing with weights and measures in the performance of the agent's duties; or

(6) operate weights and measures in trade or commerce for the purpose of determining the weight or measure of a commodity without a valid weights and measures registration issued by the department.

Section 109. Section ~~4-9-117~~, which is renumbered from Section 4-9-13 is renumbered and amended to read:

[~~4-9-13~~]. 4-9-117. Weighing and measuring devices -- Presumption.

If a weighing or measuring device is in a place where buying or selling is commonly carried on, there is a rebuttable presumption that the weighing or measuring device is regularly used for the business purposes of that place.

Section 110. Section ~~4-9-118~~, which is renumbered from Section 4-9-15 is renumbered and amended to read:

~~[4-9-15].~~ **4-9-118. Registration of commercial establishments using weights and measures -- Approved weights and measures inspectors -- Application -- Fee -- Expiration -- Renewal.**

(1) (a) Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish rules providing for the registration of weights and measures users and issuance of certification of weights and measures devices to ensure the use of correct weights and measures in commerce or trade.

(b) The division may:

(i) determine whether weights and measures are correct through:

(A) inspection and testing by a department ~~[employees]~~ employee; or

(B) acceptance of an inspection and testing report prepared by a registered weights and measures service person;

(ii) establish standards and qualifications for a registered weights and measures service ~~[persons]~~ person; and

(iii) determine the form and content of an inspection and testing report.

(c) A weights and measures user shall register with the department.

(d) ~~[Prior to]~~ Before granting a registration to a weights and measures user, the department shall determine whether the weights and measures user complies with the rules established under Subsection (1)(a).

(e) An applicant shall register with the department~~;~~ in writing, using forms required by the department.

(f) The department shall issue a registration to an applicant~~;~~ if the department determines that the applicant meets the qualifications of registration established under

3138 Subsection (1)(a).

3139 (g) If the applicant does not meet the qualifications of registration, the department shall
3140 notify the applicant, in writing, that the applicant's registration is denied.

3141 (h) (i) If an applicant submits an incomplete application, a written notice of conditional
3142 denial of registration shall be provided to ~~[an]~~ the applicant.

3143 (ii) The applicant shall correct the deficiencies within the time period specified in the
3144 notice to receive a registration.

3145 (i) (i) The department may, as provided under Subsection ~~[4-2-2]~~ 4-2-103(2), charge
3146 the weights and measures user a registration fee.

3147 (ii) The department shall retain the fees as dedicated credits and shall use the fees to
3148 administer the registration of weights and measures users.

3149 (2) (a) A registration~~[-]~~ issued under this section~~[-]~~ shall be valid from the date the
3150 department issues the registration~~[-]~~ to December 31 of the year the registration is issued.

3151 (b) A registration may be renewed for the following year by applying for renewal by
3152 December 31 of the year the registration expires.

3153 (3) A registration~~[-]~~ issued under this section~~[-]~~ shall specify:

3154 (a) the name and address of the weights and measures user;

3155 (b) the registration issuance and expiration date; and

3156 (c) the number and type of weights and measures devices to be certified.

3157 (4) (a) The department may immediately suspend a registration~~[-]~~ issued under this
3158 section~~[-]~~ if any of the requirements of Section ~~[4-9-12]~~ 4-9-116 are violated.

3159 (b) (i) The holder of a registration suspended under Subsection (4)(a) may apply for the
3160 reinstatement of a registration.

3161 (ii) If the department determines that all requirements under Section ~~[4-9-12]~~ 4-9-116
3162 are being met, the department shall reinstate the registration.

3163 (5) (a) A weights and measures user~~[-]~~ registered under this section~~[-]~~ shall allow the
3164 department access to the weights and measures user's place of business to determine if the
3165 weights and measures user is complying with the registration requirements.

(b) If a weights and measures user denies access for an inspection required under Subsection (5)(a), the department may suspend the weights and measures user's registration until the department is allowed access to the weights and measures user's place of business.

Section 111. Section **4-10-101**, which is renumbered from Section 4-10-1 is renumbered and amended to read:

**CHAPTER 10. BEDDING, UPHOLSTERED FURNITURE, AND
QUILTED CLOTHING INSPECTION ACT**

~~4-10-1~~. 4-10-101. Title.

This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act."

Section 112. Section **4-10-102**, which is renumbered from Section 4-10-2 is renumbered and amended to read:

~~4-10-2~~. 4-10-102. Definitions.

As used in this chapter:

(1) "Article" means a bedding, upholstered furniture, quilted clothing, or filling material.

(2) "Bedding" means a:

(a) quilted, packing, mattress, or hammock pad; or

(b) mattress, boxspring, comforter, quilt, sleeping bag, studio couch, pillow, or cushion made with a filling material that can be used for sleeping or reclining.

(3) "Consumer" means a person who purchases, rents, or leases an article for the article's intended, everyday use.

(4) "Filling material" means cotton, wool, kapok, feathers, down, shoddy, hair, or other material, or a combination of materials, whether loose or in bags, bales, batting, pads, or other prefabricated form that is, or can be, used in bedding, upholstered furniture, or quilted clothing.

(5) "Label" means the display of written, printed, or graphic matter upon a tag or upon the immediate container of a bedding, upholstered furniture, quilted clothing, or filling material.

3194 (6) (a) "Manufacture" means to make, process, or prepare from new or secondhand
3195 material, in whole or in part, a bedding, upholstered furniture, quilted clothing, or filling
3196 material for sale.

3197 (b) "Manufacture" does not include making, processing, or preparing an article
3198 described in Subsection (6)(a) if:

3199 (i) a person sells three or fewer of the articles per year; and

3200 (ii) the articles are sold by persons who are not primarily engaged in the making,
3201 processing, or preparation of the articles.

3202 (7) (a) "New material" means material that has not previously been used in the
3203 manufacture of another article used for any purpose.

3204 (b) "New material" includes by-products from a textile mill using only new raw
3205 material synthesized from a product that has been melted, liquified, and re-extruded.

3206 (8) "Owner's own material" means an article owned or in the possession of a person for
3207 the person's own or a tenant's use that is sent to another person for manufacture or repair.

3208 (9) "Quilted clothing" means a filled garment or apparel, exclusive of trim used for
3209 aesthetic effect, or a stiffener, shoulder pad, interfacing, or other material that is made in whole
3210 or in part from filling material and sold or offered for sale.

3211 (10) "Repair" means to restore, recover, alter, or renew bedding or upholstered
3212 furniture for a consideration.

3213 (11) "Retailer" means a person who sells bedding, upholstered furniture, quilted
3214 clothing, or filling material to a consumer for use primarily for personal, family, household, or
3215 business purposes.

3216 (12) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver,
3217 consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling
3218 material.

3219 (b) "Sale" or "sell" does not include a judicial, executor's, administrator's, or guardian's
3220 sale of an item described in Subsection (12)(a).

3221 (13) "Secondhand" means an article or filling material, or portion of an article or filling

3222 material, that has previously been used.

3223 (14) "Sterilize" means to disinfect, decontaminate, sanitize, cleanse, or purify as
3224 required by Section [~~4-10-14~~] [4-10-113](#).

3225 (15) "Tag" means a card, flap, or strip attached to an article for the purpose of
3226 displaying information required by this chapter or under rule made pursuant to it.

3227 (16) (a) "Used" means an article that has been sold to a consumer and has left the store.

3228 (b) "Used" does not include an article returned to the store:

3229 (i) with its original tags; and

3230 (ii) in its original packaging.

3231 (17) "Upholstered furniture" means portable or fixed furniture, except fixed seats in
3232 motor vehicles, boats, or aircraft, that is made in whole or in part with filling material,
3233 exclusive of trim used for aesthetic effect.

3234 (18) "Wholesaler" means a person who offers an article for resale to a retailer or
3235 institution rather than a final consumer.

3236 Section 113. Section ~~4-10-103~~, which is renumbered from Section 4-10-3 is
3237 renumbered and amended to read:

3238 ~~[4-10-3]~~. **4-10-103. Authority to make and enforce rules.**

3239 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
3240 Rulemaking Act, to make and enforce [such] rules [~~as in its judgment are necessary~~] to
3241 administer and enforce this chapter.

3242 Section 114. Section ~~4-10-104~~, which is renumbered from Section 4-10-4 is
3243 renumbered and amended to read:

3244 ~~[4-10-4]~~. **4-10-104. Manufacture, repair, or wholesale sale of bedding,**
3245 **upholstered furniture, quilted clothing, or filling material -- License required.**

3246 It is unlawful for any person to engage in the manufacture, repair, or wholesale sale of
3247 any bedding, upholstered furniture, quilted clothing, or filling material without a license issued
3248 by the department.

3249 Section 115. Section ~~4-10-105~~, which is renumbered from Section 4-10-5 is

3250 renumbered and amended to read:

3251 ~~[4-10-5]~~. **4-10-105. License -- Application -- Fees -- Expiration -- Renewal.**

3252 (1) (a) A person may apply to the department, on forms prescribed and furnished by the
3253 department, for a license to manufacture, repair, sterilize, or engage in the wholesale sale of
3254 bedding, upholstered furniture, quilted clothing, or filling material.

3255 (b) Upon receipt of a proper application and payment of the appropriate license fee, the
3256 commissioner, if satisfied that the convenience and necessity of the industry and the public will
3257 be served, shall issue to the applicant a license to engage in the particular activity through
3258 December 31 of the year in which the license is issued, subject to suspension or revocation for
3259 cause.

3260 (c) A person doing business under more than one name shall be licensed for each name
3261 under which business is conducted.

3262 (2) The annual license fee for each license issued under this chapter shall be
3263 determined by the department pursuant to Subsection ~~[4-2-2]~~ [4-2-103](#)(2).

3264 (3) Each license issued under this chapter is renewable for a period of one year upon
3265 the payment of the applicable amount for the particular license sought to be renewed on or
3266 before December 31 of each year.

3267 (4) A person who holds a valid manufacturer's license may, upon application, be
3268 licensed as a wholesale dealer without the payment of an additional license fee.

3269 (5) A person who fails to renew a license and engages in conduct requiring a license
3270 under this chapter shall pay the applicable license fee for each year in which the person engages
3271 in conduct requiring a license for which a license is not renewed.

3272 (6) The department may retroactively collect a fee owed under Subsection (5).

3273 Section 116. Section **4-10-106**, which is renumbered from Section 4-10-6 is
3274 renumbered and amended to read:

3275 ~~[4-10-6]~~. **4-10-106. Unlawful acts specified.**

3276 It is unlawful for any person to:

3277 (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new

3278 unless it is made from new material and properly tagged;

3279 (2) sell bedding, upholstered furniture, quilted clothing or filling material made from
3280 secondhand material which is not properly tagged;

3281 (3) label or sell a used or secondhand article as if it were a new article;

3282 (4) use burlap or other material which has been used for packing or baling, or to use
3283 any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair
3284 of any article;

3285 (5) sell bedding, upholstered furniture, quilted clothing or filling material which is not
3286 properly tagged regardless of point of origin;

3287 (6) use any false or misleading statement, term, or designation on any tag;

3288 (7) use any false or misleading label;

3289 (8) sell new bedding, upholstered furniture, or quilted clothing with filling material
3290 made of down, feather, wool, or hair that has not been properly sterilized; or

3291 (9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding,
3292 upholstered furniture, quilted clothing, or filling material without a license as required by this
3293 chapter.

3294 Section 117. Section **4-10-107**, which is renumbered from Section 4-10-7 is
3295 renumbered and amended to read:

3296 **[4-10-7]. 4-10-107. Tagging requirements for bedding, upholstered furniture,**
3297 **and filling material.**

3298 (1) (a) All bedding, upholstered furniture, and filling material shall be securely tagged
3299 by the manufacturer, retailer, or repairer.

3300 (b) Tags shall be at least six square inches and plainly and indelibly labeled with:

3301 (i) information as the department requires by rule;

3302 (ii) according to the filling material type, the words "All New Material," "Secondhand
3303 Material," or "Owner's Material," stamped or printed on the label; and

3304 (iii) the word "USED" stamped or printed on the label of a used mattress.

3305 (c) Each label shall be placed on the article in such a position as to facilitate ease of

3306 examination.

3307 (2) (a) If more than one type of filling material is used in an item, the percentage, by
3308 weight, of each component part shall be listed in order of predominance.

3309 (b) If descriptive statements are made about the frame, cover, or style of the article,
3310 such statements shall, in fact, be true.

3311 (c) All quilted clothing shall be tagged and labeled in conformity with the Federal
3312 Textile Fiber Products Identification Act, 15 U.S.C. Secs. 70 through 70k.

3313 (3) No person, except the purchaser, may remove, deface, or alter a tag attached
3314 according to this chapter.

3315 (4) A used mattress shall be tagged with the word "USED," in accordance with rules
3316 established by the department.

3317 (5) The retailer of a used mattress shall display the mattress so that the "USED" tag is
3318 clearly visible to a customer.

3319 Section 118. Section **4-10-108**, which is renumbered from Section 4-10-7.3 is
3320 renumbered and amended to read:

3321 **~~[4-10-7.3].~~ 4-10-108. Seller's representation of a used mattress -- Bedding**
3322 **records required.**

3323 (1) A seller shall represent a mattress tagged "USED" as previously used by a
3324 customer.

3325 (2) The manufacturer, repairer, wholesale dealer, or retailer of a mattress shall keep an
3326 invoice, shipping information, bill of lading, or other record of the mattress at the manufacture,
3327 repair, wholesale, or retail location for a minimum of one year from the day on which the
3328 invoice, shipping information, bill of lading, or other record was created or received.

3329 Section 119. Section **4-10-109**, which is renumbered from Section 4-10-8 is
3330 renumbered and amended to read:

3331 **~~[4-10-8].~~ 4-10-109. Use of rubber stamp or stencil authorized -- Conditions**
3332 **for use.**

3333 A rubber stamp or stencil may be used instead of a tag on articles with slip covers if the

article has a smooth backing, or on suitable surfaces of containers or bales of filling material; provided, the information required by Section ~~[4-10-7]~~ 4-10-107 is indelible and legible.

Section 120. Section **4-10-110**, which is renumbered from Section 4-10-9 is renumbered and amended to read:

~~[4-10-9].~~ **4-10-110. Sale of bedding, upholstered furniture, quilted clothing, or filling material -- Tag, stamp, or stencil required -- Secondhand material to bear tag -- Presumption -- Owner's own material to be tagged.**

(1) No wholesaler or retailer shall sell any bedding, upholstered furniture, quilted clothing, or prefabricated filling material, whether the point of origin of such article is inside or outside the state, unless it is appropriately tagged under Section ~~[4-10-7]~~ 4-10-107, or unless it is appropriately stamped or stenciled under Section ~~[4-10-7 or 4-10-8]~~ 4-10-107 or 4-10-109.

(2) (a) A retailer who sells used articles shall attach a secondhand material tag before sale.

(b) Possession of an article by a person who regularly engages in the manufacture, repair, wholesale, or supply of such articles is presumptive evidence of intent to sell.

(3) (a) A person who repairs "owner's own material" shall immediately upon its receipt attach an owner's material tag to the article.

(b) The tag shall remain attached to the article until it is actually in the process of repair and shall be reattached upon completion of repair.

Section 121. Section **4-10-111**, which is renumbered from Section 4-10-10 is renumbered and amended to read:

~~[4-10-10].~~ **4-10-111. Enforcement -- Inspection authorized -- Samples -- Reimbursement for samples -- Warrants.**

(1) (a) The department may access public and private premises where articles subject to this chapter are manufactured, repaired, stored, or sold for the purpose of determining compliance with this chapter.

(b) For purposes of determining compliance, the department may:

(i) open any upholstered furniture, bedding, or quilted clothing to obtain a sample for

inspection and analysis of filling material; or

(ii) if considered appropriate by the department, take the entire article for inspection and analysis.

(c) Upon request, the department shall reimburse the owner or person from whom a sample or article is taken in accordance with this Subsection (1) for the actual cost of the sample or article.

(2) Upon request, the department may review and copy any of the records required under Subsection [~~4-10-7.3~~] 4-10-108(2).

(3) The department may proceed immediately, if admittance is refused or a record is denied, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and taking samples or articles.

Section 122. Section **4-10-112**, which is renumbered from Section 4-10-11 is renumbered and amended to read:

~~[4-10-11].~~ 4-10-112. Stop sale, use, or removal order authorized -- Conditions for release specified -- Condemnation or seizure -- Procedure specified -- Award of costs authorized.

(1) (a) The department may issue a "stop sale, use, or removal order" to any manufacturer, repairer, wholesaler, or retailer of any designated article or articles which it finds or has reason to believe violates this chapter.

(b) The order shall be in writing and no article subject to it shall be removed, offered, or exposed for sale, except upon subsequent written release by the department.

(c) Before a release is issued, the department may require the manufacturer, repairer, wholesaler, or retailer of the "stopped" article to pay the expense incurred by the department in connection with the withdrawal of the article from the market.

(2) (a) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of any article which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of this chapter.

3390 (b) No bond shall be required of the department in an injunctive proceeding brought
3391 under this section.

3392 (3) [Hf] (a) Except as provided in Subsection (3)(b), if condemnation is ordered, the
3393 article shall be disposed of as the court directs[; ~~provided, that in no event shall it~~].

3394 (b) The court may not order condemnation without giving the claimant of the article an
3395 opportunity to apply to the court for permission to bring the article into conformance, or for
3396 permission to remove it from the state.

3397 (4) If the court orders condemnation, court costs, fees, storage, and other costs shall be
3398 awarded against the claimant of the article.

3399 Section 123. Section **4-10-113**, which is renumbered from Section 4-10-14 is
3400 renumbered and amended to read:

3401 ~~[4-10-14].~~ **4-10-113. Sterilization of filling material.**

3402 (1) A person shall sterilize all wool, feathers, down, shoddy, hair, or other material
3403 before the material is used as filling material in new bedding, upholstered furniture, or quilted
3404 clothing.

3405 (2) The department shall, in accordance with Title 63G, Chapter 3, Utah
3406 Administrative Rulemaking Act, make rules governing the appropriate method by which a
3407 person may sterilize wool, feathers, down, shoddy, hair, or other material for use in filling
3408 material, as required by Subsection (1).

3409 Section 124. Section **4-11-101**, which is renumbered from Section 4-11-1 is
3410 renumbered and amended to read:

3411 **CHAPTER 11. UTAH BEE INSPECTION ACT**

3412 ~~[4-11-1].~~ **4-11-101. Title.**

3413 This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Bee Inspection Act."

3414 Section 125. Section **4-11-102**, which is renumbered from Section 4-11-2 is
3415 renumbered and amended to read:

3416 ~~[4-11-2].~~ **4-11-102. Definitions.**

3417 As used in this chapter:

(1) "Abandoned apiary" means any apiary[~~:(a)~~] to which the owner or operator fails to give reasonable and adequate attention during a given year[~~, with the result that the welfare of a neighboring colony is jeopardized; or (b) that is not properly identified in accordance with this chapter.~~] as determined by the department.

(2) "Apiary" means any place where one or more colonies of bees are located.

(3) "Apiary equipment" means hives, supers, frames, veils, gloves, or other equipment used to handle or manipulate bees, honey, wax, or hives.

(4) "Appliance" means any apparatus, tool, machine, or other device used to handle or manipulate bees, wax, honey, or hives.

(5) "Bee" means the common honey bee, *Apis mellifera*, at any stage of development.

(6) (a) "Beekeeper" means a person who keeps bees [~~in order to: (i) collect honey and beeswax; (ii) pollinate crops; or (iii) produce bees for sale to other beekeepers.~~].

(b) "Beekeeper" includes an [~~apiarists~~] apiarist.

(7) "Colony" means an aggregation of bees in any type of hive that includes queens, workers, drones, or brood.

(8) "Disease" means any infectious or contagious disease affecting bees, as specified by the department, including American foulbrood.

(9) "Hive" means a frame hive, box hive, box, barrel, log, gum skep, or other artificial or natural receptacle that may be used to house bees.

(10) "Package" means any number of bees in a bee-tight container, with or without a queen, and without comb.

(11) "Parasite" means an organism that parasitizes any developmental stage of a bee.

(12) "Pest" means an organism that:

(a) inflicts damage to a bee or bee colony directly or indirectly; or

(b) may damage apiary equipment in a manner that is likely to have an adverse affect on the health of the colony or an adjacent colony.

(13) "Raise" means:

(a) to hold a colony of bees in a hive for the purpose of pollination, honey production,

3446 or study, or a similar purpose; and

3447 (b) when the person holding a colony[;] holds the colony or a package of bees in the
3448 state for a period of time exceeding 30 days.

3449 (14) "Terminal disease" means a pest, parasite, or pathogen that will kill an occupant
3450 colony or subsequent colony on the same equipment.

3451 Section 126. Section **4-11-103**, which is renumbered from Section 4-11-3 is
3452 renumbered and amended to read:

3453 **[4-11-3]. 4-11-103. Department authorized to make and enforce rules.**

3454 (1) The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
3455 Rulemaking Act, to make and enforce [~~such~~] rules [~~as it considers~~] necessary for the
3456 administration and enforcement of this chapter. [~~Such rules~~]

3457 (2) The rules described in Subsection (1) shall include provisions for the identification
3458 of each apiary within the state.

3459 Section 127. Section **4-11-104**, which is renumbered from Section 4-11-4 is
3460 renumbered and amended to read:

3461 **[4-11-4]. 4-11-104. Bee raising -- Registration required -- Application -- Fees**
3462 **-- Renewal -- License required -- Application -- Fees -- Renewal.**

3463 (1) [~~(a)~~] A person may not raise bees in this state without being registered with the
3464 department.

3465 [~~(b)~~] (2) Application for registration to raise bees shall be made to the department upon
3466 tangible or electronic forms prescribed and furnished by the department, within 30 days after
3467 the person:

3468 [~~(i)~~] (a) takes possession of the bees; or

3469 [~~(ii)~~] (b) moves the bees into the state.

3470 [~~(c)~~] (3) Nothing in Subsection [~~(1)~~](b) (2) limits the requirements of Section [~~4-11-11~~]
3471 4-11-111.

3472 [~~(d)~~] (4) An application in accordance with this chapter shall specify:

3473 [~~(i)~~] (a) the name and address of the applicant;

3474 [(ii)] (b) the number of bee colonies owned by the applicant at the time of the
3475 application that will be present in the state for a period exceeding 30 days; and

3476 [(iii)] (c) any other relevant information the department considers appropriate.

3477 [(e)] (5) Upon receipt of a proper application and payment of an annual registration fee
3478 determined by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2), the commissioner
3479 shall issue a registration to the applicant valid through December 31 of the year in which the
3480 registration is issued, subject to suspension or revocation for cause.

3481 [(f)] (6) A bee registration is renewable for a period of one year upon the payment of
3482 an annual registration renewal fee as determined by the department pursuant to Subsection
3483 ~~[4-2-2]~~ 4-2-103(2).

3484 [(g)] (7) Registration shall be renewed on or before December 31 of each year.

3485 [(2) (a) ~~A person may not operate a wax-salvage plant without a license issued by the~~
3486 ~~department.~~]

3487 [(b) ~~Application for a license to operate a wax-salvage plant shall be made to the~~
3488 ~~department upon tangible or electronic forms prescribed and furnished by the department.~~]

3489 [(c) ~~The application shall specify such information as the department considers~~
3490 ~~appropriate.~~]

3491 [(d) ~~Upon receipt of a proper application and payment of a license fee as determined by~~
3492 ~~the department pursuant to Subsection ~~4-2-2~~ (2), the commissioner, if satisfied that the~~
3493 ~~convenience and necessity of the industry and the public will be served, shall issue a license~~
3494 ~~entitling the applicant to operate a wax-salvage plant through December 31 of the year in~~
3495 ~~which the license is issued, subject to suspension or revocation for cause.~~]

3496 [(e) ~~A wax-salvage license is renewable for a period of one year, on or before~~
3497 ~~December 31 of each year, upon the payment of an annual license renewal fee as determined by~~
3498 ~~the department pursuant to Subsection ~~4-2-2~~ (2).~~]

3499 Section 128. Section ~~4-11-105~~, which is renumbered from Section 4-11-5 is
3500 renumbered and amended to read:

3501 ~~[4-11-5].~~ **4-11-105. County bee inspector -- Appointment -- Termination --**

Compensation.

(1) The county executive upon the petition of five or more persons who raise bees within the respective county shall, with the approval of the commissioner, appoint a qualified person to act as a bee inspector within the county.

(2) A county bee inspector shall be employed at the pleasure of the county executive and the commissioner[;] and is subject to termination of employment, with or without cause, at the instance of either.

(3) Compensation for the county bee inspector shall be fixed by the county legislative body.

(4) To be appointed a county bee inspector, a person shall demonstrate adequate training and knowledge related to this chapter, bee diseases, and pests.

(5) A record concerning bee inspection shall be kept by the county executive or commissioner.

(6) The county executive and the commissioner shall investigate a formal, written complaint against a county bee inspector.

~~[(7) The department may authorize an inspection if:]~~

~~[(a) a county bee inspector is not appointed; or]~~

~~[(b) a conflict of interest arises with a county bee inspector.]~~

Section 129. Section **4-11-106**, which is renumbered from Section 4-11-6 is renumbered and amended to read:

[4-11-6]. 4-11-106. Hives to have removable frames -- Consent of county bee inspector to sell or transport diseased bees.

(1) A person may not house or keep bees in a hive unless [it] the hive is equipped with movable frames to all [its] the hive's parts so that access to the hive can be had without difficulty.

(2) No person who owns or has possession of bees (whether queens or workers) with knowledge that they are infected with terminal disease, parasites, or pests, or with knowledge that they have been exposed to terminal disease, parasites, or pests, shall sell, barter, give away,

3530 or move the bees, colonies, or apiary equipment without the consent of the county bee
3531 inspector or the department.

3532 Section 130. Section **4-11-107**, which is renumbered from Section 4-11-7 is
3533 renumbered and amended to read:

3534 **[4-11-7]. 4-11-107. Inspector -- Duties -- Diseased apiaries -- Examination of**
3535 **diseased bees by department -- Election to transport bees to wax-salvage plant.**

3536 (1) The county bee inspector or the department may inspect:

3537 (a) all apiaries within the county at least once each year; and ~~[, also, inspect]~~

3538 (b) immediately any apiary within the county that is alleged in a ~~[written]~~ complaint to
3539 be severely diseased, parasitized, or abandoned.

3540 (2) If, upon inspection, the inspector determines that an apiary is diseased or
3541 parasitized, the inspector ~~[shall]~~ may take the following action based on the severity of the
3542 disease or parasite present:

3543 (a) prescribe the course of treatment that the owner or caretaker of the bees shall follow
3544 to eliminate the disease or parasite;

3545 (b) personally, for the purpose of treatment approved by the department, take control of
3546 the afflicted bees, hives, combs, broods, honey, and equipment; or

3547 (c) destroy the afflicted bees and, if necessary, their hives, combs, broods, honey, and
3548 all appliances that may have become infected.

3549 (3) If, upon reinspection, the inspector determines that the responsible party has not
3550 executed the course of treatment prescribed by Subsection (2), the inspector may take
3551 immediate possession of the afflicted colony for control or destruction in accordance with
3552 Subsection (2)(b) or (c).

3553 (4) (a) The owner of an apiary who is dissatisfied with the diagnosis or course of action
3554 proposed by an inspector under this section may, at the owner's expense, have the department
3555 examine the alleged diseased bees.

3556 (b) The decision of the commissioner with respect to the condition of bees at the time
3557 of the examination is final and conclusive upon the owner and the inspector involved.

[~~(5)~~ The owner of a diseased apiary, notwithstanding the provisions of Subsections (2),
(3), and (4), may elect under the direction of the county bee inspector to kill the diseased bees,
seal their hives, and transport them to a licensed wax-salvage plant.]

Section 131. Section **4-11-108**, which is renumbered from Section 4-11-8 is
renumbered and amended to read:

**[~~4-11-8~~]. 4-11-108. County bee inspector -- Disinfection required before
leaving apiary with diseased bees.**

(1) Before inspecting the premises of any apiary, an inspector and any assistant of an
inspector shall disinfect any equipment that will be used in the inspection.

[~~(1)~~] (2) Before leaving the premises of any apiary [~~where disease exists~~], the [county]
bee inspector, or any assistant, shall thoroughly disinfect any part of the inspector's own person,
clothing, or any appliance that has come in contact with infected material.

[~~(2)~~] (3) The method of disinfection required by Subsection [~~(1)~~] (2):

(a) may be determined by the department; and

(b) shall be sufficient to destroy disease, parasites, and pathogens encountered.

[~~(3)~~] (4) A county bee inspector shall maintain a record of each inspection, including
disinfection practices.

[~~(4)~~] (5) The county executive or the commissioner may review a county bee
inspector's records kept in accordance with Subsection [~~(3)~~] (4).

Section 132. Section **4-11-109**, which is renumbered from Section 4-11-9 is
renumbered and amended to read:

**[~~4-11-9~~]. 4-11-109. Inspection of apiaries where queen bees raised for sale --
Honey from apiaries where queen bees raised for sale not to be used for candy for
mailing cages unless boiled.**

(1) (a) At least twice each summer the county bee inspector [~~shall~~] may inspect each
apiary in which queen bees are raised for sale.

(b) A person may not sell or transport any queen bee from an apiary that is found to be
infected with disease[;] without the consent of the county bee inspector or the department.

(2) No person engaged in raising queen bees for sale shall use any honey for making candy for mailing cages that has not been boiled for at least 30 minutes.

(3) A person rearing queens shall follow standard methods for minimizing or eliminating unmanageably aggressive stock.

Section 133. Section ~~4-11-110~~, which is renumbered from Section 4-11-10 is renumbered and amended to read:

~~[4-11-10].~~ **4-11-110. Enforcement -- Inspections authorized -- Warrants.**

(1) The department and all [county] bee inspectors shall have access to all apiaries or places where bees, hives, and appliances are kept for the purpose of enforcing this chapter.

(2) If admittance is refused, the department, or the [county] bee inspector involved, may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making an inspection.

Section 134. Section ~~4-11-111~~, which is renumbered from Section 4-11-11 is renumbered and amended to read:

~~[4-11-11].~~ **4-11-111. Importation of bees or appliances into state -- Certification required -- Inspection discretionary -- Authority to require destruction or removal of diseased bees and appliances.**

(1) (a) A person may not bring or import any bees in packages or hives or bring or import any used beekeeping equipment or appliances into this state~~[, except after]~~ without obtaining a certificate from an inspector authorized in the state of origin certifying that:

(i) the bees, apiary equipment, or appliances have been inspected within the current production season~~[-];~~ and ~~[that]~~

(ii) all diseased colonies in the apiary at the time of the inspection were destroyed or ~~[removed to a licensed wax-salvage plant before the issuance of the certificate.]~~ treated.

(b) A person bringing or importing bees into the state shall advise the department of the address of the ~~[bees]~~ bees' destination and furnish the department with a copy of the certificate of inspection ~~[either: (i) within at least five working days before the bees enter the state; or (ii)]~~ upon entry into the state.

(c) A person intending to hold bees in the state for a period of time exceeding 30 days shall comply with Section ~~[4-11-4]~~ 4-11-104.

(2) (a) A person may not bring or import any used apiary equipment, except after obtaining a certificate from an inspector authorized in the state of origin certifying that all potentially pathogen-conductive apiary equipment or appliances are appropriately sterilized immediately before importation.

(b) A person bringing or importing used apiary equipment shall advise the department of the address of the destination in the state and furnish the department with a copy of the certificate of inspection ~~[either: (i) within at least five working days before the bees enter the state; or (ii)]~~ upon entry into the state.

(3) Used apiary equipment or appliances that have been exposed to terminal disease may not be sold without the consent of the ~~[county]~~ bee inspector or the commissioner.

(4) In lieu of the certificate required by Subsection (1), the certificate may be a Utah certificate.

(5) (a) If the department determines it is necessary for any reason to inspect any bees, apiary equipment, or appliance upon arrival at a destination in this state, and upon this inspection finds terminal disease, the department shall cause all diseased colonies, appliances, and equipment to be either:

(i) destroyed immediately; or

(ii) removed from the state within 48 hours.

(b) The costs ~~[under]~~ of complying with Subsection (5)(a)(i) or (ii) shall be paid by the person bringing the diseased colonies, appliances, or equipment into the state.

Section 135. Section ~~4-11-112~~, which is renumbered from Section 4-11-12 is renumbered and amended to read:

~~[4-11-12].~~ **4-11-112. Quarantine authorized.**

The commissioner, in order to protect the bee industry of the state against bee health or management issues, may quarantine the entire state, an entire county, or any apiary or specific hive within the state~~[, as the commissioner considers necessary]~~.

3642 Section 136. Section **4-11-113**, which is renumbered from Section 4-11-13 is
3643 renumbered and amended to read:

3644 ~~[4-11-13].~~ **4-11-113. Unlawful acts specified.**

3645 It is unlawful for a person to:

3646 (1) extract honey in any place where bees can gain access either during or after the
3647 extraction process;

3648 ~~[(2) remove honey or wax, or attempt to salvage, or salvage any hives, apiary~~
3649 ~~equipment, or appliances from a diseased colony, except in a licensed wax-salvage plant,~~
3650 ~~unless specifically authorized by a county bee inspector or the commissioner;]~~

3651 ~~[(3)]~~ (2) maintain any neglected or abandoned hives, apiary equipment, or appliances
3652 other than in an enclosure that prohibits the entrance of bees;

3653 ~~[(4)]~~ (3) raise bees without being registered with the department; or

3654 ~~[(5) operate a wax-salvage plant without a license;]~~

3655 ~~[(6) store an empty hive body, apiary equipment, or appliances in a manner that may~~
3656 ~~propagate pests, disease, or bee feeding frenzy; or]~~

3657 ~~[(7)]~~ (4) knowingly sell a colony, apiary equipment, or ~~[appliances that are]~~ appliance
3658 that is inoculated with terminal disease pathogens.

3659 Section 137. Section **4-11-114**, which is renumbered from Section 4-11-14 is
3660 renumbered and amended to read:

3661 ~~[4-11-14].~~ **4-11-114. Maintenance of abandoned apiary, equipment, or**
3662 **appliance -- Nuisance.**

3663 (1) It is a public nuisance to keep ~~[or maintain]~~ an abandoned or diseased apiary, apiary
3664 equipment, or appliance anywhere other than in an enclosure that prohibits the entry of bees.

3665 (2) Items listed in Subsection (1) are subject to seizure and destruction by the county
3666 bee inspector.

3667 (3) Upon discovery of, or receipt of a written complaint concerning, an abandoned
3668 apiary site, apiary equipment, or appliance, the ~~[county]~~ bee inspector shall attempt to notify
3669 the registered owner, if any.

(4) (a) A registered owner notified under Subsection (3) shall remove the abandoned apiary, apiary equipment, or appliance or provide a bee-proof enclosure within 15 days.

(b) The [county] bee inspector or the department shall verify the removal or protection in accordance with Subsection (4)(a) at the expiration of the 15-day period.

(c) If a registered owner does not comply with Subsection (4)(a), the [county] bee inspector or the department may seize and destroy the abandoned apiary, apiary equipment, and appliances.

(5) A [county] bee inspector or the department may seize and destroy an abandoned apiary, apiary equipment, or appliances if the abandoned apiary, apiary equipment, or appliances do not indicate a registered owner.

Section 138. Section ~~4-11-115~~, which is renumbered from Section 4-11-17 is renumbered and amended to read:

~~[4-11-17]~~. **4-11-115. Maintaining gentle stock.**

A beekeeper may not intentionally maintain an aggressive or unmanageable stock, whether African or European in origin.

Section 139. Section ~~4-12-4~~ is amended to read:

4-12-4. Distribution of commercial and customer-formula feed -- Registration or permit required -- Application -- Fees -- Expiration -- Renewal.

(1) No person may distribute a commercial feed in this state which is not registered with the department. Application for registration shall be made to the department upon forms prescribed and furnished by it accompanied with an annual registration fee, determined by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2), for each brand name of commercial feed registered. Upon receipt of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing the applicant to distribute the registered commercial feed in this state through December 31 of the year in which the registration is issued, subject to suspension or revocation for cause.

(2) A person who distributes customer-formula feed is not required to register such feed, but is required to obtain a permit from the department before distribution. Application

for a customer-formula feed distribution permit shall be made to the department upon forms prescribed and furnished by it accompanied with an annual permit fee determined by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2). Upon receipt by the department of a proper application and payment of the appropriate fee as prescribed by the department, the commissioner shall issue a permit to the applicant allowing the applicant to distribute customer-formula feed in this state through December 31 of the year in which the permit is issued, subject to suspension or revocation for cause.

(3) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee. Each renewal fee shall be paid on or before December 31 of each year.

(4) A customer-formula feed permit is renewable for a period of one year upon the payment of an annual permit renewal fee in an amount equal to the current applicable original permit fee. Each permit renewal fee shall be paid on or before December 31 of each year.

Section 140. Section **4-13-101**, which is renumbered from Section 4-13-1 is renumbered and amended to read:

CHAPTER 13. UTAH FERTILIZER ACT

~~[4-13-1].~~ **4-13-101. Title.**

This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Fertilizer Act."

Section 141. Section **4-13-102**, which is renumbered from Section 4-13-2 is renumbered and amended to read:

~~[4-13-2].~~ **4-13-102. Definitions.**

As used in this chapter:

(1) "Adulterated fertilizer" means any commercial fertilizer that contains an ingredient that renders it injurious to beneficial plant life when applied in accordance with the directions on the label, or contains crop or weed seed, or is inadequately labeled to protect plant life.

(2) "Brand" means any term, design, or trade mark used in connection with one or several grades of commercial fertilizer or soil amendment.

(3) "Commercial fertilizer" means any substance that contains one or more recognized

3726 plant nutrients that is used for its plant nutrient content and is designed for use or claimed to
3727 have value in promoting plant growth, exclusive of unmanipulated animal and vegetable
3728 manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule of
3729 the department.

3730 (4) "Distributor" means any person who:

3731 (a) imports, consigns, manufactures, produces, compounds, mixes, or blends
3732 commercial fertilizer;

3733 (b) imports, consigns, manufactures, produces, compounds, sizes, or blends a soil
3734 amendment; or

3735 (c) offers for sale, sells, barter, or otherwise supplies commercial fertilizer or a soil
3736 amendment in this state.

3737 (5) "Fertilizer material" means a commercial fertilizer that contains either:

3738 (a) quantities of no more than one of the primary plant nutrients (nitrogen, phosphoric
3739 acid and potash);

3740 (b) approximately 85% plant nutrients in the form of a single chemical compound; or

3741 (c) plant or animal residues or by-products, or a natural material deposit that is
3742 processed so that its primary plant nutrients have not been materially changed, except through
3743 purification and concentration.

3744 (6) "Grade" means the percentage of total nitrogen, available phosphorus or phosphoric
3745 acid, and soluble potassium or soluble potash stated in whole numbers in the same terms,
3746 order, and percentages as in the guaranteed analysis; provided, that specialty fertilizers may be
3747 guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or
3748 phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as
3749 bone meal, manures, and similar raw materials may be guaranteed in fractional units.

3750 (7) (a) "Guaranteed analysis" means the minimum percentage by weight of plant
3751 nutrients claimed in the following order and form:

3752 Total nitrogen (N) _____ percent

3753 Available phosphoric acid (P₂O₅) _____ percent

3754 Soluble potash (K₂O) _____ percent

3755 (b) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and
3756 other organic phosphate materials, it means the total phosphoric acid or degree of fineness.

3757 (c) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in
3758 multiples of one hundred pounds per ton, when required by rule.

3759 (d) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium
3760 may be permitted or required by rule of the department.

3761 (ii) The guarantees for such other nutrients shall be expressed in the form of the
3762 element.

3763 (iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required
3764 to be stated on the application for registration and may be included as a parenthetical statement
3765 on the label.

3766 (iv) Other beneficial substances or compounds, determinable by laboratory methods,
3767 also may be guaranteed by permission of the department.

3768 (v) Any plant nutrients or other substances or compounds guaranteed are subject to
3769 inspection and analysis in accord with the methods and rules prescribed by the department.

3770 (8) "Investigational allowance" means an allowance for variations inherent in the
3771 taking, preparation, and analysis of an official sample of commercial fertilizer or soil
3772 amendment.

3773 (9) "Label" means the display of all written, printed, or graphic matter upon the
3774 immediate container or statement accompanying a commercial fertilizer or soil amendment.

3775 (10) "Labeling" means all written, printed, or graphic matter upon or accompanying
3776 any commercial fertilizer or soil amendment, or advertisements, brochures, posters, television
3777 and radio announcements used in promoting the sale of such commercial fertilizers or soil
3778 amendments.

3779 (11) "Mixed fertilizer" means a commercial fertilizer containing any combination of
3780 fertilizer materials.

3781 (12) "Official sample" means any sample of commercial fertilizer or soil amendment

3782 taken by the department and designated as "official."

3783 (13) "Percent" or "percentage" means the percentage by weight.

3784 (14) "Registrant" means any person who registers a commercial fertilizer or a soil
3785 amendment under the provisions of this chapter.

3786 (15) (a) "Soil amendment" means any substance that is intended to improve the
3787 physical characteristics of soil.

3788 (b) "Soil amendment" does not include any commercial fertilizer, agriculture liming
3789 materials, unmanipulated animal manure, unmanipulated vegetable manure, pesticides, or other
3790 material exempt by rule of the department.

3791 (16) "Specialty fertilizer" means any commercial fertilizer distributed primarily for
3792 non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks,
3793 cemeteries, greenhouses, and nurseries.

3794 (17) "Ton" means a net weight of 2,000 pounds avoirdupois.

3795 Section 142. Section **4-13-103**, which is renumbered from Section 4-13-3 is
3796 renumbered and amended to read:

3797 **~~[4-13-3].~~ 4-13-103. Distribution of commercial fertilizer or soil amendment --**
3798 **Registration required -- Application -- Fees -- Expiration -- Renewal -- Exemptions**
3799 **specified -- Blenders and mixers to register name under which business conducted --**
3800 **Blenders and mixers fee.**

3801 (1) (a) Each brand and grade of commercial fertilizer or soil amendment shall be
3802 registered in the name of the person whose name appears upon the label before being
3803 distributed in this state.

3804 (b) The application for registration shall be submitted to the department on a form
3805 prescribed and furnished by it, and shall be accompanied by a fee determined by the department
3806 pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2) for each brand and grade.

3807 (c) Upon approval by the department, a copy of the registration shall be furnished to
3808 the applicant.

3809 (d) (i) Each registration expires at midnight on December 31 of the year in which

3810 issued.

3811 (ii) Each registration is renewable for a period of one year upon the payment of an
3812 annual registration renewal fee in an amount equal to the current applicable original
3813 registration fee.

3814 (iii) Each renewal fee shall be paid on or before December 31 of each year.

3815 (2) The application for registration shall include the following information:

3816 (a) the net weight;

3817 (b) the brand and grade;

3818 (c) the guaranteed analysis;

3819 (d) the name and address of the registrant; and

3820 (e) any other information as the department may prescribe by rule.

3821 (3) A distributor is not required to register any commercial fertilizer which has been
3822 registered by another person under this chapter if the label does not differ in any respect.

3823 (4) (a) A distributor is not required to register each grade of commercial fertilizer
3824 formulated by a consumer before mixing, but is required to:

3825 (i) register the name under which the business of blending or mixing is conducted;

3826 (ii) pay an annual blenders license fee determined by the department pursuant to
3827 Subsection [~~4-2-2~~] 4-2-103(2); and

3828 (iii) label the mixed fertilizer or soil amendment as provided in Section [~~4-13-4~~]
3829 4-13-104.

3830 (b) (i) A blenders license shall expire at midnight on December 31 of the year in which
3831 it is issued.

3832 (ii) A blenders license is renewable for a period of one year upon the payment of an
3833 annual license renewal fee in an amount equal to the current applicable original blenders
3834 license fee.

3835 (iii) Each renewal fee shall be paid on or before December 31 of each year.

3836 (5) (a) A fee shall be assessed on fertilizer and soil amendment products sold in the
3837 state.

- 3838 (b) The fee shall be:
- 3839 (i) determined by the department pursuant to Subsection [~~4-2-2~~] 4-2-103(2); and
- 3840 (ii) paid by the manufacturer or distributor on a schedule specified by rule.
- 3841 (c) Revenue generated by the fee shall be deposited in the General Fund as dedicated
- 3842 credits to be used by the department for education about and promotion of proper fertilizer
- 3843 distribution, handling, and use.

3844 Section 143. Section **4-13-104**, which is renumbered from Section 4-13-4 is

3845 renumbered and amended to read:

3846 ~~[4-13-4]~~. **4-13-104. Labeling requirements for specialty fertilizer, bulk**

3847 **commercial fertilizer, packaged mixed fertilizer, and soil amendments specified.**

3848 (1) Each container of specialty commercial fertilizer distributed in this state shall bear

3849 a label setting forth:

- 3850 (a) its net weight;
- 3851 (b) brand and grade;
- 3852 (c) guaranteed analysis;
- 3853 (d) the name and address of the registrant; and
- 3854 (e) the lot number.

3855 (2) (a) Each bulk shipment of commercial fertilizer distributed in this state shall be

3856 accompanied by a printed or written statement setting forth the information specified in

3857 Subsections (1)(a) through (e).

3858 (b) The statement shall be delivered to the purchaser at the time the bulk fertilizer is

3859 delivered.

3860 (3) Each sale of packaged mixed fertilizer shall be labeled, or labeling furnished the

3861 consumer, to show its net weight, guaranteed analysis, lot number, and the name and address of

3862 the distributor.

3863 (4) (a) Each container of soil amendment shall conform to the requirements of

3864 Subsection (1), and if distributed in bulk, with Subsection (2).

3865 (b) The name or chemical designation and content of the soil amending ingredient or

3866 any other information prescribed by rule of the department shall appear whether distributed in a
3867 container or in bulk.

3868 Section 144. Section **4-13-105**, which is renumbered from Section 4-13-5 is
3869 renumbered and amended to read:

3870 **[4-13-5]. 4-13-105. Enforcement -- Inspection and samples authorized --**
3871 **Methods for sampling and analysis prescribed -- Warrants.**

3872 (1) The department shall periodically sample, inspect, analyze, and test commercial
3873 fertilizers and soil amendments distributed within this state to determine if they comply with
3874 this chapter.

3875 (2) Methods of analysis and sampling shall be in accordance with those adopted by the
3876 department from sources such as the Association of Official Analytical Chemists Journal.

3877 (3) In determining whether a commercial fertilizer or soil amendment is deficient, the
3878 department shall be guided solely by the official sample.

3879 (4) (a) The department is authorized to enter any public or private premises or carriers
3880 during regular business hours in order to have access to commercial fertilizers or soil
3881 amendments subject to this chapter.

3882 (b) If admittance is refused, the department may proceed immediately to obtain an ex
3883 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
3884 for the purpose of making inspections and obtaining samples.

3885 Section 145. Section **4-13-106**, which is renumbered from Section 4-13-6 is
3886 renumbered and amended to read:

3887 **[4-13-6]. 4-13-106. Distribution of fertilizers not complying with labeling**
3888 **requirements prohibited -- Guaranteed analysis deficient -- Penalty assessed -- Time for**
3889 **payment -- Court action to vacate or amend finding authorized.**

3890 (1) No person shall distribute in this state a commercial fertilizer, fertilizer material,
3891 soil amendment or specialty fertilizer if the official sample thereof establishes that the
3892 commercial fertilizer, fertilizer material, soil amendment or specialty fertilizer is deficient in
3893 the nutrients guaranteed on the label by an amount exceeding the values established by rule or

if the overall index value of the official sample is below the level established by rule.

(2) If an official sample, after analysis, demonstrates the guaranteed analysis is deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance prescribed by rule, or if the over-all index value of the official sample is below the level established by rule, a penalty of three times the commercial value of the deficiency or deficiencies of the lot represented by the official sample may be assessed against the registrant.

(3) All penalties assessed under this section shall be paid to the department within three months after notice from the department.

(4) Any registrant aggrieved by the finding of an official sample deficiency may file a complaint with a court of competent jurisdiction to vacate or amend the finding of the department.

Section 146. Section **4-13-107**, which is renumbered from Section 4-13-7 is renumbered and amended to read:

~~[4-13-7].~~ 4-13-107. Department to publish commercial values applied to components of commercial fertilizer.

The department shall annually publish the values per unit of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizers in this state for the purpose of notifying registrants of the commercial value to be applied to commercial fertilizers under Section ~~[4-13-6]~~ 4-13-106.

Section 147. Section **4-13-108**, which is renumbered from Section 4-13-8 is renumbered and amended to read:

~~[4-13-8].~~ 4-13-108. Suspension or revocation authorized -- Refusal to register authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.

(1) The department may revoke or suspend the registration of any brand of commercial fertilizer or soil amendment, or refuse to register any brand of commercial fertilizer or soil amendment upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in registration or distribution in this state.

(2) (a) The department may issue a "stop sale, use or removal order" to the owner or person in possession of any designated lot of commercial fertilizer or soil amendment which it finds or has reason to believe is being offered or exposed for sale in violation of this chapter.

(b) The order shall be in writing and no commercial fertilizer or soil amendment subject to it shall be moved or offered or exposed for sale, except upon the subsequent written release of the department.

(c) Before a release is issued, the department may require the owner or person in possession of the "stopped" lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(3) (a) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of any fertilizer which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction, to prevent violation of this chapter.

(b) No bond shall be required of the department in any injunctive proceeding under this section.

(4) If condemnation is ordered, the fertilizer or soil amendment shall be disposed of as the court directs; provided, that in no event shall it order condemnation without giving the claimant of the fertilizer or soil amendment an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the product into conformance, or to remove it from the state.

(5) If the court orders condemnation of the commercial fertilizer or soil amendment, court costs, fees, storage, and other expenses shall be awarded against the claimant of the fertilizer or soil amendment.

Section 148. Section **4-13-109**, which is renumbered from Section 4-13-9 is renumbered and amended to read:

~~[4-13-9]~~. **4-13-109. Sales or exchanges of commercial fertilizers or soil amendments between manufacturers, importers, or manipulators permitted.**

Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of

commercial fertilizers or soil amendments to each other by importers, manufacturers, or manipulators who mix fertilizer or soil amendment materials for sale or as preventing the free and unrestricted shipment of commercial fertilizer or soil amendments to manufacturers or manipulators who have registered their brands as required by this chapter.

Section 149. Section ~~4-14-101~~, which is renumbered from Section 4-14-1 is renumbered and amended to read:

CHAPTER 14. UTAH PESTICIDE CONTROL ACT

~~[4-14-1]~~. 4-14-101. Title.

This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Pesticide Control Act."

Section 150. Section ~~4-14-102~~, which is renumbered from Section 4-14-2 is renumbered and amended to read:

~~[4-14-2]~~. 4-14-102. Definitions.

As used in this chapter:

(1) "Active ingredient" means an ingredient that:

(a) prevents, destroys, repels, controls, or mitigates pests; or

(b) acts as a plant regulator, defoliant, or desiccant.

(2) "Adulterated pesticide" means a pesticide with a strength or purity that is below the standard of quality expressed on the label under which ~~[it]~~ the pesticide is offered for sale.

(3) "Animal" means all vertebrate or invertebrate species.

(4) "Beneficial insect" means an insect that is:

(a) an effective pollinator of plants;

(b) a parasite or predator of pests; or

(c) otherwise beneficial.

(5) "Defoliant" means a substance or mixture intended to cause leaves or foliage to drop from a plant, with or without causing abscission.

(6) "Desiccant" means a substance or mixture intended to artificially accelerate the drying of plant or animal tissue.

(7) "Distribute" means to offer for sale, sell, barter, ship, deliver for shipment, receive,

3978 deliver, or offer to deliver pesticides in this state.

3979 (8) "Environment" means all living plants and animals, water, air, land, and the
3980 interrelationships that exist between them.

3981 (9) (a) "Equipment" means any type of ground, water, or aerial equipment or
3982 contrivance using motorized, mechanical, or pressurized power to apply a pesticide.

3983 (b) "Equipment" does not mean any pressurized hand-sized household apparatus used
3984 to apply a pesticide or any equipment or contrivance used to apply a pesticide that is dependent
3985 solely upon energy expelled by the person making the pesticide application.

3986 (10) "EPA" means the United States Environmental Protection Agency.

3987 (11) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.

3988 (12) (a) "Fungus" means a nonchlorophyll-bearing thallophyte or a
3989 nonchlorophyll-bearing plant of an order lower than mosses and liverworts, including rust,
3990 smut, mildew, mold, yeast, and bacteria.

3991 (b) "Fungus" does not include fungus existing on or in:

3992 (i) a living person or other animal; or

3993 (ii) processed food, beverages, or pharmaceuticals.

3994 (13) "Insect" means an invertebrate animal generally having a more or less obviously
3995 segmented body:

3996 (a) usually belonging to the Class Insecta, comprising six-legged, usually winged
3997 forms, including beetles, bugs, bees, and flies; and

3998 (b) allied classes of arthropods that are wingless usually having more than six legs,
3999 including spiders, mites, ticks, centipedes, and wood lice.

4000 (14) "Label" means any written, printed, or graphic matter on, or attached to, a
4001 pesticide or a container or wrapper of a pesticide.

4002 (15) (a) "Labeling" means all labels and all other written, printed, or graphic matter:

4003 (i) accompanying a pesticide or equipment; or

4004 (ii) to which reference is made on the label or in literature accompanying a pesticide or
4005 equipment.

4006 (b) "Labeling" does not include any written, printed, or graphic matter created by the
4007 EPA, the United States Departments of Agriculture or Interior, the United States Department of
4008 Health, Education, and Welfare, state experimental stations, state agricultural colleges, and
4009 other federal or state institutions or agencies authorized by law to conduct research in the field
4010 of pesticides.

4011 (16) "Land" means land, water, air, and plants, animals, structures, buildings,
4012 contrivances, and machinery appurtenant or situated thereon, whether fixed or mobile,
4013 including any used for transportation.

4014 (17) "Misbranded" means any label or labeling that is false or misleading or that does
4015 not strictly comport with the label and labeling requirements set forth in Section [~~4-14-4~~]
4016 4-14-104.

4017 (18) "Misuse" means use of any pesticide in a manner inconsistent with [~~its~~] the
4018 pesticide's label or labeling.

4019 (19) "Nematode" means invertebrate animals of the Phylum Nemathelminthes and
4020 Class Nematoda, including unsegmented round worms with elongated, fusiform, or saclike
4021 bodies covered with cuticle, also known as nemas or eelworms.

4022 (20) (a) "Pest" means:

4023 (i) any insect, rodent, nematode, fungus, weed; or

4024 (ii) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other
4025 microorganism that is injurious to health or to the environment or that the department declares
4026 to be a pest.

4027 (b) "Pest" does not include:

4028 (i) viruses, bacteria, or other microorganisms on or in a living person or other living
4029 animal; or

4030 (ii) protected wildlife species identified in Section 23-13-2 that are regulated by the
4031 Division of Wildlife Resources in accordance with Sections 23-14-1 through 23-14-3.

4032 (21) "Pesticide" means any:

4033 (a) substance or mixture of substances, including a living organism, that is intended to

4034 prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug,
 4035 fungus, weed, or other form of plant or animal life that is normally considered to be a pest or
 4036 that the commissioner declares to be a pest;

4037 (b) any substance or mixture of substances intended to be used as a plant regulator,
 4038 defoliant, or desiccant;

4039 (c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder,
 4040 adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide
 4041 to aid ~~[its]~~ the pesticide's application or effect; and

4042 (d) any other substance designated by the department by rule.

4043 (22) "Pesticide applicator" is a person who:

4044 (a) applies or supervises the application of a pesticide; and

4045 (b) is required by this chapter to have a license.

4046 (23) (a) "Pesticide applicator business" means an entity that:

4047 (i) is authorized to do business in this state; and

4048 (ii) offers pesticide application services.

4049 (b) "Pesticide applicator business" does not include an individual licensed agricultural
 4050 applicator who may work for hire.

4051 (24) "Pesticide dealer" means any person who distributes restricted use pesticides.

4052 (25) (a) "Plant regulator" means any substance or mixture intended, through
 4053 physiological action, to accelerate or retard the rate of growth or rate of maturation, or
 4054 otherwise alter the behavior of ornamental or crop plants.

4055 (b) "Plant regulator" does not include plant nutrients, trace elements, nutritional
 4056 chemicals, plant inoculants, or soil amendments.

4057 (26) "Restricted use pesticide" means:

4058 (a) a pesticide, including a highly toxic pesticide, that is a serious hazard to beneficial
 4059 insects, animals, or land; or

4060 (b) any pesticide or pesticide use restricted by the administrator of EPA or by the
 4061 commissioner.

4062 (27) "Weed" means any plant that grows where not wanted.

4063 (28) "Wildlife" means all living things that are neither human, domesticated, nor pests.

4064 Section 151. Section **4-14-103**, which is renumbered from Section 4-14-3 is

4065 renumbered and amended to read:

4066 **[4-14-3]. 4-14-103. Registration required for distribution -- Application --**

4067 **Fees -- Renewal -- Local needs registration -- Distributor or applicator license -- Fees --**

4068 **Renewal.**

4069 (1) (a) ~~[No]~~ A person ~~[may distribute a pesticide in this state]~~ that is not registered with
4070 the department may not distribute a pesticide in this state.

4071 (b) Application for registration shall be made to the department upon forms prescribed
4072 and furnished by ~~[it]~~ the department accompanied with an annual registration fee determined
4073 by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2) for each pesticide registered.

4074 (c) Upon receipt by the department of a proper application and payment of the
4075 appropriate fee, the commissioner shall issue a registration to the applicant allowing
4076 distribution of the registered pesticide in this state through June 30 of each year, subject to
4077 suspension or revocation for cause.

4078 (d) (i) Each registration is renewable for a period of one year upon the payment of an
4079 annual registration renewal fee in an amount equal to the current applicable original
4080 registration fee.

4081 (ii) Each renewal fee shall be paid on or before June 30 of each year.

4082 (2) The application shall include the following information:

4083 (a) the name and address of the applicant and the name and address of the person
4084 whose name will appear on the label, if other than the applicant's name;

4085 (b) the name of the pesticide;

4086 (c) a complete copy of the label ~~[which]~~ that will appear on the pesticide; and

4087 (d) any information prescribed by rule of the department considered necessary for the
4088 safe and effective use of the pesticide.

4089 (3) (a) Forms for the renewal of registration shall be mailed to registrants at least 30

4090 days before their registration expires.

4091 (b) A registration in effect on June 30 for which a renewal application has been filed
4092 and the registration fee tendered shall continue in effect until the applicant is notified either
4093 that the registration is renewed or that ~~[it]~~ the registration is suspended or revoked pursuant to
4094 Section ~~[4-14-8]~~ 4-14-108.

4095 (4) The department may, before approval of any registration, require the applicant to
4096 submit the complete formula of any pesticide, including active and inert ingredients, and may
4097 also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on
4098 which restrictions are being considered, require a complete description of all tests and test
4099 results that support the claims made by the applicant or the manufacturer of the pesticide.

4100 (5) A registrant who desires to register a pesticide to meet special local needs
4101 according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and
4102 (2), satisfy the department that:

4103 (a) a special local need exists;

4104 (b) the pesticide warrants the claims made for ~~[it]~~ the pesticide;

4105 (c) the pesticide, if used in accordance with commonly accepted practices, will not
4106 cause unreasonable adverse effects on the environment; and

4107 (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

4108 (6) ~~[No]~~ A registration is not required for a pesticide distributed in this state pursuant
4109 to an experimental use permit issued by the EPA or under Section ~~[4-14-5]~~ 4-14-105.

4110 (7) ~~[No]~~ A pesticide dealer may not distribute a restricted use pesticide in this state
4111 without a license.

4112 (8) A person shall receive a license before applying:

4113 (a) a restricted use pesticide; or

4114 (b) a general use pesticide for hire or in exchange for compensation.

4115 (9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained
4116 by:

4117 (i) submitting an application on a form provided by the department;

(ii) showing evidence of competence in the pesticide profession, as established by rule, and complying with the rules adopted by the department under this chapter;

(iii) demonstrating good character;

(iv) having no outstanding infractions and owing no money to the department; and

(v) paying the license fee determined by the department according to Subsection ~~[4-2-2]~~ 4-2-103(2).

(b) A person may apply for a triennial license that expires on December 31 of the second calendar year after the calendar year in which the license is issued.

(c) Notwithstanding Section ~~63J-1-504~~, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this title.

Section 152. Section ~~4-14-104~~, which is renumbered from Section 4-14-4 is renumbered and amended to read:

~~[4-14-4]~~. **4-14-104. Labeling requirement for pesticides specified.**

(1) Each container of pesticide distributed in this state shall bear a label setting forth:

(a) the name, brand, or trademark under which ~~[it]~~ the pesticide is distributed;

(b) subject to Subsection (2), an accurate statement of the ingredients on ~~[that]~~:

(i) the part of the immediate container ~~[(and)]~~ that is presented or displayed under customary conditions of purchase; and

(ii) on the outside container and wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read ~~[(which is presented or displayed under customary conditions of purchase; provided, that the ingredient statement may appear prominently on another part of the container as permitted pursuant to Section 2(q)(2)(A) of FIFRA if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;];~~

(c) a warning or caution statement if necessary, which, if complied with together with any requirements imposed under Section 3(d) of FIFRA, is adequate to protect ~~[the]~~ the health and the environment;

4146 (d) the net weight or measure of the content;

4147 (e) the name and address of the manufacturer, registrant, or person for whom
4148 manufactured;

4149 (f) the EPA registration number assigned to each establishment in which ~~[it]~~ the
4150 pesticide was produced and the EPA registration number assigned to the pesticide, if required
4151 by regulations under FIFRA;

4152 (g) the federal use classification under which the pesticide is registered or designated
4153 for "experimental use only"; and

4154 (h) directions for use of the pesticide sufficient to ~~[effectuate]~~ carry out the purposes
4155 for which the product is intended and which, if complied with together with any requirements
4156 imposed under Section 3(d) of FIFRA, are adequate to protect health and the environment.

4157 (2) An ingredient statement may appear prominently on another part of a container, as
4158 permitted under Section 2(q)(2)(A) of FIFRA, if the size or form of the container makes it
4159 impractical to place the ingredient statement on the part of the retail package that is presented
4160 or displayed under customary conditions of purchase.

4161 ~~[(2)]~~ (3) If the pesticide is highly toxic the label shall, in addition to the other label
4162 requirements, display:

4163 (a) the skull and crossbones;

4164 (b) the word "POISON" in red prominently displayed on a background of distinctly
4165 contrasting color; and

4166 (c) a statement of a practical treatment ~~[(f)]~~ first aid or otherwise ~~[(g)]~~ in case of poisoning
4167 by the pesticide.

4168 Section 153. Section **4-14-105**, which is renumbered from Section 4-14-5 is
4169 renumbered and amended to read:

4170 ~~[4-14-5]~~. **4-14-105. Issuance of experimental use permits -- Application --**
4171 **Terms and conditions for issuance.**

4172 (1) The department upon application may:

4173 (a) issue an experimental use permit to any person if ~~[it]~~ the department determines

that the applicant needs such a permit in order to accumulate information necessary to register a pesticide under Section [~~4-14-3~~] 4-14-103; or

(b) refuse to issue an experimental permit if [it] the department determines that issuance is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

(2) The department may also with respect to issuance of an experimental use permit:

(a) prescribe the terms and conditions for the conduct of the experimental use [~~which~~] that in all events shall be under the supervision of the department; and

(b) revoke or modify any experimental use permit if [it] the department determines that the terms or conditions of the experimental use are being violated, or that the terms and conditions prescribed are inadequate to avoid unreasonable adverse effects to the environment.

(3) Application for an experimental use permit may be made before, after, or simultaneously with an application for registration.

Section 154. Section ~~4-14-106~~, which is renumbered from Section 4-14-6 is renumbered and amended to read:

~~[4-14-6]~~. 4-14-106. Department authorized to make and enforce rules.

The department may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to:

(1) declare as a pest any form of plant or animal life that is injurious to health or the environment, except:

(a) a human being; or

(b) a bacteria, virus, or other microorganism on or in a living person or animal;

(2) establish, in accordance with the regulations [~~promulgated~~] issued by the EPA under 7 U.S.C. Sec. 136w(c)(2), whether pesticides registered for special local needs under the authority of 7 U.S.C. Sec. 136v(c) are highly toxic to man;

(3) establish, consistent with EPA regulations, that certain pesticides or quantities of substances contained in these pesticides are injurious to the environment;

(4) adopt a list of "restricted use pesticides" for the state or designated areas within the

state if [it] the department determines upon substantial evidence presented at a public hearing and upon recommendation of the pesticide committee that restricted use is necessary to prevent damage to property or to the environment;

(5) establish qualifications for a pesticide applicator business; and

(6) adopt any rule, not inconsistent with federal regulations [~~promulgated~~] issued under FIFRA, considered necessary to administer and enforce this chapter, including rules relating to the sale, distribution, use, and disposition of pesticides if necessary to prevent damage and to protect the public health.

Section 155. Section **4-14-107**, which is renumbered from Section 4-14-7 is renumbered and amended to read:

~~[4-14-7].~~ 4-14-107. Enforcement -- Inspection and sampling authorized -- Notice of deficiency to be given registrant -- Objects of inspection delineated -- Warrants.

(1) The department, to determine compliance with this chapter, shall periodically:

(a) sample, inspect, and analyze pesticides distributed within this state;

(b) observe and investigate the use and application of pesticides within this state; and

(c) inspect equipment used to apply pesticides in this state to determine if [~~they~~ ~~comply~~] the equipment complies with this chapter.

(2) (a) If a pesticide sample, upon analysis, fails to comply with this chapter, the department shall give written notice to that effect to the registrant or owner of the pesticide.

(b) Nothing in this chapter, however, shall be construed as requiring the department to refer minor violations for criminal prosecution or for the institution of condemnation proceedings if [it] the department believes the public interest will best be served through informal action.

(3) The department, for the purpose of enforcing this section, is authorized at reasonable times[;] to enter any private or public premises for the purpose of:

(a) inspecting any equipment used in applying pesticides;

(b) inspecting or sampling lands actually or reported to be exposed to pesticides;

(c) inspecting storage or disposal areas;

4230 (d) investigating complaints of injury to animals or lands;

4231 (e) sampling pesticides wherever located, including in vehicles; or

4232 (f) observing the use and application of a pesticide.

4233 (4) The department may proceed immediately, if admittance is refused, to obtain an ex
4234 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
4235 for any purpose specified in Subsection (3) of this section.

4236 Section 156. Section ~~4-14-108~~, which is renumbered from Section 4-14-8 is
4237 renumbered and amended to read:

4238 ~~[4-14-8]~~. **4-14-108. Suspension or revocation -- Grounds -- Stop sale, use, or**
4239 **removal order authorized -- Court action -- Procedure -- Award of costs authorized.**

4240 (1) The department may revoke or suspend the registration of any pesticide upon
4241 satisfactory evidence that the registrant has used fraudulent or deceptive practices in the
4242 registration of the pesticide or in ~~[its]~~ the pesticide's distribution in this state.

4243 (2) (a) The department may issue a "stop sale, use, or removal order" to the owner or
4244 distributor of any designated pesticide or lot of pesticide ~~[which it]~~ that the department finds or
4245 has reason to believe is being offered or exposed for sale in violation of this chapter.

4246 (b) The order described in Subsection (2)(a) shall be in writing and no pesticide subject
4247 to ~~[it]~~ the order shall be moved, offered, or exposed for sale, except upon the subsequent
4248 written release by the department.

4249 (c) Before a release is issued, the department may require the owner or distributor of
4250 the "stopped" pesticide or lot to pay the expense incurred by the department in connection with
4251 the withdrawal of the product from the market.

4252 (3) (a) The department is authorized in a court of competent jurisdiction to seek an
4253 order of seizure or condemnation of a pesticide ~~[which]~~ that violates this chapter or, upon
4254 proper grounds, to obtain a temporary restraining order or permanent injunction to prevent the
4255 violation of this chapter.

4256 (b) No bond shall be required of the department in an injunctive proceeding brought
4257 under this section.

4258 (4) ~~[H]~~ (a) Subject to Subsection (4)(b), if condemnation is ordered, the pesticide or
4259 equipment shall be disposed of as the court directs~~[- provided, that in no event shall it].~~

4260 (b) The department may not order condemnation without giving the registrant or other
4261 person an opportunity to apply to the court for permission to relabel, reprocess, or otherwise
4262 bring the pesticide into conformance, or for permission to remove [it] the pesticide from the
4263 state.

4264 (5) If the court orders condemnation, court costs, fees, storage, and other costs shall be
4265 awarded against the claimant of the pesticide or equipment.

4266 (6) The department may:

4267 (a) deny an application for a pesticide applicator license;

4268 (b) revoke a pesticide applicator license for cause; or

4269 (c) suspend a pesticide applicator license for cause.

4270 (7) (a) If a pesticide applicator license is revoked or suspended under Subsection (6),
4271 the license shall be returned to the department within 14 days of the day on which the licensee
4272 received notice of the revocation or suspension.

4273 (b) A licensee who fails to return a license, as described in Subsection (7)(a), may be
4274 subjected to an administrative fine of up to \$100 for each 14 days the license is not returned.

4275 Section 157. Section ~~4-14-109~~, which is renumbered from Section 4-14-9 is
4276 renumbered and amended to read:

4277 ~~[4-14-9]~~. **4-14-109. Examination requirements for license to act as applicator**
4278 **may be waived through reciprocal agreement.**

4279 The department may waive any or all examination requirements specified in rule for a
4280 noncommercial, commercial, or private pesticide applicator through a reciprocal agreement
4281 with another state whose examination requirements and standards for licensure are
4282 substantially similar to those of Utah.

4283 Section 158. Section ~~4-14-110~~, which is renumbered from Section 4-14-12 is
4284 renumbered and amended to read:

4285 ~~[4-14-12]~~. **4-14-110. Defenses.**

(1) As an affirmative defense to any action brought as a result of the alleged misuse or misapplication of a pesticide, a person may present evidence that as of the time of the alleged violation, the person was in compliance with label directions, this chapter, and any rules issued in accordance with this chapter.

(2) A person is not liable for injuries resulting from the misuse or misapplication of a pesticide unless the person was negligent.

Section 159. Section ~~4-14-111~~, which is renumbered from Section 4-14-13 is renumbered and amended to read:

~~[4-14-13]~~. **4-14-111. Registration required for a pesticide business.**

(1) A pesticide applicator business shall register with the department by:

- (a) submitting an application on a form provided by the department;
- (b) paying the registration fee; and
- (c) certifying that the business is in compliance with this chapter and departmental rules authorized by this chapter.

(2) (a) By following the procedures and requirements of Section ~~63J-1-504~~, the department shall establish a registration fee based on the number of pesticide applicators employed by the pesticide applicator business.

(b) (i) Notwithstanding Section ~~63J-1-504~~, the department shall deposit the fees as dedicated credits and may only use the fees to administer and enforce this chapter.

(ii) The Legislature may annually designate the revenue generated from the fee as nonlapsing in an appropriations act.

(3) The department shall issue a business registration certificate to a pesticide applicator business if the individual or entity:

- (a) has complied with the requirements of this section;
- (b) has shown evidence of competence in the pesticide profession and meets the certification requirements established by rule;
- (c) demonstrates good character;
- (d) has no outstanding infractions and owes no money to the department; and

4314 (e) pays the licensing fee established by the department.

4315 (4) A registration certificate expires on December 31 of the second calendar year after
4316 the calendar year in which the registration certificate is issued.

4317 (5) (a) The department may suspend a registration certificate if the pesticide applicator
4318 business violates this chapter or any rules authorized by it.

4319 (b) A pesticide applicator business whose registration certificate has been suspended
4320 may apply to the department for reinstatement of the registration certificate by demonstrating
4321 compliance with this chapter and rules authorized by ~~it~~ this chapter.

4322 (6) A pesticide applicator business shall:

4323 (a) only employ a pesticide applicator who has received a license from the department,
4324 as required by Section ~~[4-14-3]~~ 4-14-103; and

4325 (b) ensure that all employees comply with this chapter and the rules authorized by ~~it~~
4326 this chapter.

4327 Section 160. Section **4-15-101**, which is renumbered from Section 4-15-1 is
4328 renumbered and amended to read:

4329 **CHAPTER 15. THE UTAH NURSERY ACT**

4330 ~~[4-15-1].~~ **4-15-101. Title.**

4331 This chapter ~~[shall be known and may be cited]~~ is known as "The Utah Nursery Act."

4332 Section 161. Section **4-15-102**, which is renumbered from Section 4-15-1.5 is
4333 renumbered and amended to read:

4334 ~~[4-15-1.5].~~ **4-15-102. Background and purpose.**

4335 The Legislature finds that:

4336 (1) nursery stock can harbor and vector plant pests and diseases;

4337 (2) unregulated production and shipping of nursery stock presents an unacceptable risk
4338 to the state's agricultural, forestry, and horticultural interests, and to the state's general
4339 environmental quality; and

4340 (3) it is necessary to ensure that nurseries produce healthy plants and that nursery stock
4341 shipped to other nurseries, brokers, and out-of-state customers meets national nursery stock

4342 cleanliness standards.

4343 Section 162. Section **4-15-103**, which is renumbered from Section 4-15-2 is
4344 renumbered and amended to read:

4345 ~~[4-15-2]~~. **4-15-103. Definitions.**

4346 As used in this part:

4347 (1) "Balled and burlapped stock" means nursery stock ~~[which]~~ that is removed from the
4348 growing site with a ball of soil containing its root system intact and encased in burlap or other
4349 material to hold the soil in place.

4350 (2) "Bare-root stock" means nursery stock ~~[which]~~ that is removed from the growing
4351 site with the root system free of soil.

4352 (3) "Compliance agreement" means any written agreement between a person and a
4353 regulatory agency to achieve compliance with any set of requirements being enforced by the
4354 department.

4355 (4) "Container stock" means nursery stock ~~[which]~~ that is transplanted in soil or in a
4356 potting mixture contained within a metal, clay, plastic, or other rigid container for a period
4357 sufficient to allow newly developed fibrous roots to form, so that if the plant is removed from
4358 the container ~~[its]~~ the plant's root-media ball will remain intact.

4359 (5) "Etiolated growth" means bleached and unnatural growth resulting from the
4360 exclusion of sunlight.

4361 (6) "Minimum indices of vitality" mean standards adopted by the department to
4362 determine the health and vigor of nursery stock offered for sale in this state.

4363 (7) "National nursery stock cleanliness standards" means nursery stock that:

4364 (a) is free from quarantine pests and pests of concern;

4365 (b) has all nonquarantine plant pests under effective control;

4366 (c) meets the national nursery stock cleanliness standards; and

4367 (d) is eligible for nursery stock certification and shipping permits.

4368 (8) "Nonestablished container stock" means deciduous nursery stock ~~[which]~~ that is
4369 transplanted in soil or in a potting mixture contained within a metal, clay, plastic, or other rigid

4370 container for a period insufficient to allow the formation of fibrous roots sufficient to form a
4371 root-media ball.

4372 (9) "Nursery" means any place where nursery stock is propagated and grown for sale or
4373 distribution.

4374 (10) "Nursery agent" means a person who solicits or takes order for the sale of nursery
4375 stock, other than on the premises of a nursery or nursery outlet.

4376 ~~[(10)]~~ (11) "Nursery outlet" means any place or location where nursery stock is offered
4377 for wholesale or retail sale.

4378 ~~[(11)]~~ (12) (a) "Nursery stock" means:

4379 (i) all plants, whether field grown, container grown, or collected native plants;

4380 (ii) trees, shrubs, vines, grass sod;

4381 (iii) seedlings, perennials, biennials; and

4382 (iv) buds, cuttings, grafts, or scions grown or collected or kept for propagation, sale, or
4383 distribution~~[; except that it does not include]~~.

4384 (b) "Nursery stock" does not mean:

4385 (i) dormant bulbs, tubers, roots, corms, rhizomes, or pips;

4386 (ii) field, vegetable, or flower seeds; or

4387 (iii) bedding plants, annual plants, florists' greenhouse or field-grown plants, or flowers
4388 or cuttings.

4389 ~~[(12)]~~ (13) "Packaged stock" means bare-root stock that is packed either in bundles or
4390 in single plants with the roots in some type of moisture-retaining material designed to retard
4391 evaporation and hold the moisture-retaining material in place.

4392 ~~[(13)]~~ (14) "Pests of concern" means a nonquarantine pest that:

4393 (a) is not known to occur in the state, or ~~[which]~~ that has a limited distribution within
4394 the state~~[;]~~; and

4395 (b) has the potential to negatively impact nursery stock health or pose an unacceptable
4396 economic or environmental risk.

4397 ~~[(14)]~~ (15) "Place of business" means each separate nursery, or nursery outlet, where

4398 nursery stock is offered for sale, sold, or distributed.

4399 ~~[(15)]~~ (16) "Plant pests" means:

4400 (a) the egg, pupal, and larval stage, as well as any other living stage of any insect, mite,
4401 nematode, slug, snail, protozoa, or other invertebrate animal;

4402 (b) bacteria;

4403 (c) fungi;

4404 (d) parasitic plant or a reproductive part of a parasitic plant;

4405 (e) ~~[a]~~ virus or viroid;

4406 (f) phytoplasma; or

4407 (g) any infectious substance that can injure or cause disease or damage in any plant.

4408 ~~[(16)]~~ (17) "Quarantine pest" means a pest that poses potential negative economic or
4409 environmental impact to an area in which the pest currently:

4410 (a) does not exist; or

4411 (b) exists, but its presence is not widely distributed or is being officially controlled.

4412 ~~[(17)]~~ (18) "Shipping permit or certificate of inspection" means a sticker, stamp,
4413 imprint, or other document that accompanies nursery stock shipped intrastate and documents
4414 that the originating nursery:

4415 (a) is licensed; and

4416 (b) (i) has stock that has passed ~~[its]~~ annual inspection; or

4417 (ii) produces stock that meets the National Nursery Stock Compliance Standard.

4418 Section 163. Section **4-15-104**, which is renumbered from Section 4-15-3 is

4419 renumbered and amended to read:

4420 ~~**[4-15-3].**~~ **4-15-104.** Department authorized to make and enforce rules.

4421 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
4422 Rulemaking Act, to make and enforce ~~[such]~~ rules ~~[as in its judgment are]~~ necessary to
4423 administer and enforce this chapter.

4424 Section 164. Section **4-15-105**, which is renumbered from Section 4-15-4 is

4425 renumbered and amended to read:

4426 ~~[4-15-4].~~ **4-15-105. Unlawful to offer nursery stock for sale or to solicit**
4427 **orders for nursery stock without license.**

4428 It is unlawful for any person in this state to offer nursery stock for sale at a nursery or
4429 nursery outlet, or to solicit or receive orders for nursery stock for a person who regularly
4430 engages in the business of operating a nursery or nursery outlet, without a license issued by the
4431 department.

4432 Section 165. Section **4-15-106**, which is renumbered from Section 4-15-5 is
4433 renumbered and amended to read:

4434 ~~[4-15-5].~~ **4-15-106. License -- Application -- Fees -- Expiration -- Renewal.**

4435 (1) (a) Application for a license to operate a nursery or nursery outlet or to solicit or
4436 receive orders of nursery stock for a person regularly engaged in the business of operating a
4437 nursery or nursery outlet shall be made to the department on forms prescribed and furnished by
4438 ~~[it]~~ the department.

4439 (b) Upon receipt of a proper application and compliance with applicable rules, and
4440 payment of a license fee determined by the department according to Subsection ~~[4-2-2]~~
4441 4-2-103(2) for each place of business where the applicant intends to offer nursery stock for
4442 wholesale or retail sale, or the payment of a fee determined by the department pursuant to
4443 Subsection ~~[4-2-2]~~ 4-2-103(2) in the case of an agent, the commissioner, if satisfied the
4444 convenience and necessity of the industry and the public will be served, shall issue a license to
4445 engage in the otherwise proscribed activity through December 31 of the year in which the
4446 license is issued, subject to suspension or revocation for cause.

4447 (2) A license to operate a nursery or nursery outlet or an agent's license is renewable on
4448 or before December 31 of each year for a period of one year upon the payment of an annual
4449 license renewal fee determined by the department according to Subsection ~~[4-2-2]~~ 4-2-103(2).

4450 Section 166. Section **4-15-107**, which is renumbered from Section 4-15-6 is
4451 renumbered and amended to read:

4452 ~~[4-15-6].~~ **4-15-107. Nursery stock for wholesale or retail sale -- Graded and**
4453 **sized -- Labels and tags -- Information to appear on label or tag.**

(1) Each type of nursery stock delivered to a nursery or nursery outlet for subsequent wholesale or retail sale shall:

(a) be sized and graded in accordance with the applicable rules of the department; and

(b) bear a tag or label with the name, grade, size, and variety of the stock.

(2) Each bundle, single lot, or single nursery stock sold at retail shall bear a secure tag or label with the common or botanical name, grade, size, and variety of the stock legibly printed or written on [it] the bundle, single lot, or single nursery stock.

Section 167. Section **4-15-108**, which is renumbered from Section 4-15-7 is renumbered and amended to read:

[4-15-7]. 4-15-108. Inspection -- Issuance of certificate -- Destruction of infested or diseased stock.

(1) (a) Each nursery may be inspected by the department at least once each year.

(b) If, upon the inspection described in Subsection (1)(a), it appears that the nursery and ~~[its]~~ the nursery's stock are free of insect pests and plant disease, the department shall issue ~~[a]~~ an inspection certificate ~~[to that effect]~~ to the nursery.

(2) (a) Each nursery outlet may be inspected by the department at least once each year during the period nursery stock is offered for retail sale. ~~[An inspection certificate may be issued by the department]~~

(b) The department may issue an inspection certificate to a nursery outlet to permit the interstate shipment of nursery stock if the stock contemplated for shipment appears free of insect pests and plant disease.

(3) Nursery stock found to be infested with insect pests or infected with plant disease shall be destroyed or otherwise treated as determined by the department.

Section 168. Section **4-15-109**, which is renumbered from Section 4-15-8 is renumbered and amended to read:

[4-15-8]. 4-15-109. Transport of out-of-state nursery stock to Utah -- Certificate of inspection to be filed with department by out-of-state nurseries -- Option in department to accept exchange list in lieu of certificate of inspection -- Imported stock to

be tagged -- Treatment of stock not tagged.

~~[(1) Out-of-state]~~

(1) (a) Subject to Subsection (1)(b), out-of-state nurseries and nursery outlets transporting nursery stock to a nursery or nursery outlet in this state shall annually deliver to the department a certified duplicate copy of the "state of origin" certificate of inspection for each such out-of-state nursery or nursery outlet~~[- provided, that the]~~.

(b) The department may accept and exchange a list of certified or licensed out-of-state nurseries or nursery outlets in lieu of a certificate of inspection for each such individual nursery or nursery outlet.

(2) Nursery stock originating outside and imported into this state for customer delivery or for resale shall bear a tag:

(a) stating that the nursery stock has been inspected and certified free from plant pests and disease~~[- The tag shall also bear]; and~~

(b) bearing the name and address of the shipper or consignor.

(3) A shipment of nursery stock destined for delivery in this state ~~[which]~~ that is not accompanied with ~~[such a tag]~~ the tag described in Subsection (2) may be:

(a) returned to the owner or consignor at ~~[such person's expense, or may be]~~ the owner or consignor's expense; or

(b) destroyed, or otherwise disposed of, by the department without compensation to the owner or consignor.

Section 169. Section **4-15-110**, which is renumbered from Section 4-15-9 is renumbered and amended to read:

~~[4-15-9].~~ **4-15-110. Nursery stock offered or advertised for sale -- Unlawful to misrepresent name, origin, grade, variety, quality, or vitality -- Information required in advertisements.**

~~[No]~~ (1) A person shall not misrepresent the name, origin, grade, variety, quality, or indice of vitality of any nursery stock advertised or offered for sale at a nursery or nursery outlet.

4510 (2) All advertisements of nursery stock shall clearly state the name, size, and grade of
4511 the stock where applicable.

4512 Section 170. Section **4-15-111**, which is renumbered from Section 4-15-10 is
4513 renumbered and amended to read:

4514 ~~[4-15-10]~~. **4-15-111. Infested or diseased stock not to be offered for sale --**
4515 **Identification of "nonestablished container stock" -- Requirements for container stock --**
4516 **Inspected and certified stock only to be offered for sale -- Prohibition against coating**
4517 **aerial plant surfaces.**

4518 (1) Nursery stock ~~[which]~~ that is infested with plant pests, including noxious weeds, or
4519 infected with disease or ~~[which]~~ that does not meet minimum indices of vitality may not be
4520 offered for sale.

4521 (2) All nonestablished container stock offered for sale shall be identified by the words
4522 "nonestablished container stock" legibly printed on a water resistant tag ~~[which]~~ that states the
4523 length of time ~~[it]~~ the stock has been planted or the date ~~[it]~~ the stock was planted and may not
4524 be offered for sale in any manner ~~[which]~~ that leads a purchaser to believe ~~[it]~~ the stock is
4525 container stock.

4526 (3) All container stock offered for sale shall be established with a root-media mass that
4527 will retain its shape and hold together when removed from the container.

4528 (4) No nursery stock other than officially inspected and certified stock shall be offered
4529 for wholesale or retail sale in this state.

4530 (5) Colored waxes or other materials ~~[which]~~ that coat the aerial parts of a plant and
4531 change the appearance of the plant surface are prohibited.

4532 Section 171. Section **4-15-112**, which is renumbered from Section 4-15-11 is
4533 renumbered and amended to read:

4534 ~~[4-15-11]~~. **4-15-112. Enforcement -- Inspection -- Stop sale order -- Procedure**
4535 **-- Warrants.**

4536 (1) (a) The department may issue a "stop sale" order to any nursery or nursery outlet
4537 upon discovery or notification of a quarantine pest or pest of concern, or if the department has

4538 reason to believe the nursery is offering, advertising, or selling nursery stock in violation of
4539 Section [~~4-15-10~~] 4-15-111.

4540 (b) The "stop sale" order described in Subsection (1)(a) shall be in writing and no
4541 nursery stock subject to [it] the order shall be advertised or sold, except upon subsequent
4542 written release by the department.

4543 (2) (a) The department is authorized for the purpose of ascertaining compliance with
4544 this chapter to enter and inspect any nursery or nursery outlet where nursery stock is kept
4545 during [~~their~~] the nursery or nursery outlet's business hours.

4546 (b) If access for the purpose of inspection is denied, the department may proceed
4547 immediately to the nearest court of competent jurisdiction and obtain an ex parte warrant or its
4548 equivalent to permit inspection of the nursery or nursery outlet.

4549 Section 172. Section **4-15-113**, which is renumbered from Section 4-15-12 is
4550 renumbered and amended to read:

4551 ~~[4-15-12].~~ **4-15-113. Suspension or revocation -- Grounds -- Notice and**
4552 **hearing.**

4553 ~~[The]~~ (1) Subject to Subsection (2), the department may suspend or revoke the license
4554 of any nursery, nursery outlet, or agent that violates Section [~~4-15-9 or 4-15-10~~]; ~~provided, that~~
4555 ~~no~~ 4-15-110 or 4-15-111.

4556 (2) A suspension or revocation shall not be effective until after the nursery, nursery
4557 outlet, or agent is afforded notice and a hearing.

4558 Section 173. Section **4-15-114**, which is renumbered from Section 4-15-14 is
4559 renumbered and amended to read:

4560 ~~[4-15-14].~~ **4-15-114. Compliance agreements.**

4561 The department may make compliance agreements with the responsible officials of
4562 other states and nursery establishments to achieve compliance with any set of requirements
4563 being enforced by the department.

4564 Section 174. Section **4-16-101**, which is renumbered from Section 4-16-1 is
4565 renumbered and amended to read:

Part 1. Organization**~~[4-16-1].~~ 4-16-101. Short title.**

This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Seed Act."

Section 175. Section **4-16-102**, which is renumbered from Section 4-16-2 is renumbered and amended to read:

~~[4-16-2].~~ 4-16-102. Definitions.

As used in this chapter:

(1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or ground stock other than those on the label of a seed container, disseminated in any manner.

(2) "Agricultural seeds" mean seeds of grass, forage plants, cereal crops, fiber crops, sugar beets, seed potatoes, or any other kinds of seed or mixtures of seed commonly known within this state as agricultural or field seeds.

(3) "Flower seeds" mean seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental plants commonly known and sold under the name of flower seeds in this state.

(4) "Foundation seed," "registered seed," or "certified seed" means seed that is produced and labeled in accordance with procedures officially recognized by a seed certifying agency approved and accredited in this state.

(5) (a) "Hybrid" means the first generation seed of a cross produced by controlling pollination and by combining:

(i) two or more inbred lines;

(ii) one inbred or a single cross with an open-pollinated variety; or

(iii) two varieties or species, except open-pollinated varieties of corn, *Zea mays*.

(b) The second generation and subsequent generations from the crosses referred to in Subsection (5)(a) are not to be regarded as hybrids.

(c) Hybrid designations shall be treated as variety names.

(6) "Kind" means one or more related species or subspecies of seed which singly or collectively is known by one name, for example, corn, oats, alfalfa, and timothy.

(7) (a) "Label" means any written, printed, or graphic representation accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.

(b) "Label" includes representations on invoices, bills, and letterheads.

(8) "Lot" means a definite quantity of seed identified by a number or other mark, every part or bag of which is uniform within recognized tolerances.

(9) "Noxious-weed seeds" mean weed seeds declared noxious by the commissioner.

(10) "Pure seed," "germination," or other terms in common use for testing seeds for purposes of labeling shall have ascribed to them the meaning set forth for such terms in the most recent edition of "Rules for Seed Testing" published by the Association of Official Seed Analysts.

(11) "Seeds for sprouting" means seeds sold for sprouting for salad or culinary purposes.

(12) "Sowing" means the placement of agricultural seeds, vegetable seeds, flower seeds, tree and shrub seeds, or seeds for sprouting in a selected environment for the purpose of obtaining plant growth.

(13) "Treated" means seed that has received an application of a substance to reduce, control, or repel certain disease organisms, fungi, insects or other pests which may attack the seed or its seedlings, or has received some other treatment to improve its planting value.

(14) "Tree and shrub seeds" mean seeds of woody plants commonly known and sold under the name of tree and shrub seeds in this state.

(15) "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristic, which differentiate it from other plants of the same kind.

(16) "Vegetable seeds" mean seeds of crops grown in gardens or on truck farms that are generally known and sold under the name of vegetable seeds, plants, bulbs, and ground stocks in this state.

(17) "Weed seeds" mean seeds of any plant generally recognized as a weed within this state.

Section 176. Section **4-16-103**, which is renumbered from Section 4-16-3 is

4622 renumbered and amended to read:

4623 ~~[4-16-3]~~. **4-16-103.** Department authorized to make and enforce rules --
4624 **Cooperation with state and federal agencies authorized.**

4625 (1) The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
4626 Rulemaking Act, to make and enforce [such] rules [as in its judgment are deemed necessary to
4627 administer and enforce this chapter; and, in conjunction with its administration and
4628 enforcement, it is authorized to].

4629 (2) The department may cooperate with other state agencies, other states, and with the
4630 United States Department of Agriculture or other departments or agencies of the federal
4631 government.

4632 Section 177. Section **4-16-201**, which is renumbered from Section 4-16-4 is
4633 renumbered and amended to read:

Part 2. Regulations

4635 ~~[4-16-4].~~ 4-16-201. Labeling requirements specified for containers of
4636 agricultural seed, mixtures of lawn and turf seed, vegetable seed, flower seed, tree and
4637 shrub seed, and seeds for sprouting.

4638 (1) Each container of agricultural seed offered or exposed for sale or transported for
4639 sowing into this state shall be labeled with the following information:

4640 (a) the common name of the kind or kind and variety of each seed component in excess
4641 of 5% by weight of the whole and the percent by weight of each component in the order of its
4642 predominance, provided that:

4643 (i) if any component is required by rule of the department to be labeled as a variety, the
4644 label, in addition to stating the common name of the seed, shall specify the name of the variety
4645 or, if allowed by rule of the department, state "Variety Not Stated";

4646 (ii) if any component is a hybrid seed, that fact shall be stated on the label; and

4647 (iii) if more than one component is required to be named, the word "mixture" shall
4648 appear;

4649 (b) the name and address of the person who labeled the seed, or who offers or exposes

4650 it for sale in this state;

4651 (c) the lot number or other lot identification;

4652 (d) the percentage by weight of all weed seeds;

4653 (e) the percentage by weight of agricultural or crop seeds other than those named on

4654 the label;

4655 (f) the percentage by weight of inert matter;

4656 (g) the name and rate of occurrence per pound of each kind of restricted noxious-weed

4657 seed for which tolerance is permitted;

4658 (h) the origin, if known, of alfalfa, red clover, or field corn and, if the origin is

4659 unknown, that fact shall be stated; and

4660 (i) the month and year seed tests were conducted specifying:

4661 (i) percent of germination, exclusive of hard seed;

4662 (ii) percent of hard seed; and

4663 (iii) total percent of germination and hard seed.

4664 (2) Each container of seed mixtures for lawn or turf seed offered or exposed for sale or

4665 transported for sowing into this state shall be labeled with the following information:

4666 (a) the common name of the kind or kind and variety of each agricultural seed

4667 component in excess of 5% by weight of the whole, and the percentage by weight of pure seed

4668 in order of its predominance in columnar form;

4669 (b) the name and address of the person who labeled the seed, or who offers or exposes

4670 it for sale in this state;

4671 (c) the lot number or other lot identification;

4672 (d) the percentage by weight of all weed seeds;

4673 (e) the percentage by weight of agricultural seeds or crop seeds other than those

4674 required to be named on the label;

4675 (f) the percentage by weight of inert matter;

4676 (g) the name and rate of occurrence per pound of each kind of restricted noxious-weed

4677 seed for which tolerance is permitted;

- 4678 (h) the month and year seed tests were conducted specifying:
4679 (i) percent of germination, exclusive of hard seed; and
4680 (ii) percent of hard seed;
4681 (i) the word "mixed" or "mixture"; and
4682 (j) its net weight.
- 4683 (3) Each container of vegetable seeds weighing one pound or less offered or exposed
4684 for sale or prepared for home gardens or household plantings or preplanted in containers, mats,
4685 tapes, or other devices shall be labeled with the following information:
- 4686 (a) the common name of the kind and variety of seed;
4687 (b) the name and address of the person who labeled the seed, or who offers or exposes
4688 it for sale in this state;
4689 (c) the calendar month and year the seed was tested or the year for which the seed was
4690 packaged;
4691 (d) if germination of the seed is less than the germination standard last established for
4692 the seed by the department, the label shall specify:
- 4693 (i) percentage of germination, exclusive of hard seed;
4694 (ii) percentage of hard seed, if present;
4695 (iii) the calendar month and year the germination test was completed to determine the
4696 percentages; and
4697 (iv) the words "Below Standard" in not less than eight-point type; and
4698 (e) if the seeds are placed in a germination medium, mat, tape, or other device which
4699 makes it difficult to determine the quantity of the seed without removing the seeds, a statement
4700 to indicate the minimum number of seeds in the container.
- 4701 (4) Each container of vegetable seeds weighing more than one pound offered or
4702 exposed for sale or transported for sowing into this state shall be labeled with the following
4703 information:
- 4704 (a) the common name of each kind and variety of seed component present in excess of
4705 5% by weight of the whole and the percentage by weight of each in order of its predominance;

4706 (b) the name and address of the person who labeled the seed, or who offers or exposes
4707 it for sale in this state;

4708 (c) the lot number or other lot identification;

4709 (d) the month and year seed tests were conducted specifying:

4710 (i) the percentage of germination, exclusive of hard seed; and

4711 (ii) the percentage of hard seed, if present; and

4712 (e) the name and rate of occurrence per pound of each kind of restricted noxious-weed
4713 seed for which tolerance is permitted.

4714 (5) Each container of flower seeds prepared in packets for use in home flower gardens
4715 or household plantings or flower seeds in preplanted containers, mats, tapes, or other planting
4716 devices and offered or exposed for sale in this state shall be labeled with the following
4717 information:

4718 (a) the common name of the kind and variety of the seeds or a statement of the type
4719 and performance characteristics of the seed;

4720 (b) the name and address of the person who labeled the seed, or who offers or exposes
4721 it for sale in this state;

4722 (c) the calendar month and year the seed was tested or the year for which the seed was
4723 packaged;

4724 (d) if germination of the seed is less than the germination standard last established by
4725 the department, the label shall specify:

4726 (i) percentage of germination, exclusive of hard seed;

4727 (ii) percentage of hard seed, if present; and

4728 (iii) the words "Below Standard" in not less than eight-point type; and

4729 (e) if the seeds are placed in a germination medium, mat, tape, or other device which
4730 makes it difficult to determine the quantity of seed without removing the seeds, a statement to
4731 indicate the minimum number of seeds in the container.

4732 (6) Each container of flower seeds in other than packets prepared for use in home
4733 flower gardens or household plantings and other than in preplanted containers, mats, tapes, and

4734 other devices offered or exposed for sale in this state shall be labeled with the following
4735 information:

4736 (a) the common name of the kind and variety of the seed or a statement of the type and
4737 performance characteristics of the seed;

4738 (b) the name and address of the person who labeled the seed, or who offers or exposes
4739 it for sale in this state;

4740 (c) the lot number or other lot identification;

4741 (d) the month and year the seed was tested, or the year for which it was packaged; and

4742 (e) for those kinds of seeds for which standard testing procedures are prescribed:

4743 (i) the percentage of germination, exclusive of hard seed; and

4744 (ii) the percentage of hard seed, if present.

4745 (7) Each container of tree and shrub seeds offered or exposed for sale or transported for
4746 sowing into this state shall be labeled with the following information:

4747 (a) the common name of the species of seed and subspecies, if appropriate;

4748 (b) the scientific name of the genus and species and subspecies, if appropriate;

4749 (c) the name and address of the person who labeled the seed or who offers or exposes it
4750 for sale in this state;

4751 (d) the lot number or other lot identification;

4752 (e) information as to origin as follows:

4753 (i) for seed collected from a predominantly indigenous stand, the area of collection

4754 given by latitude and longitude, or geographic description, or political subdivision such as state
4755 or county; and

4756 (ii) for seed collected from other than a predominantly indigenous stand, identity of the
4757 area of collection and the origin of the stand or state "origin not indigenous";

4758 (f) the elevation or the upper and lower limits of elevation within which said seed was
4759 collected;

4760 (g) purity as a percentage of pure seed by weight;

4761 (h) for those species for which standard germination testing procedures are prescribed

4762 by the commissioner, the following:

- 4763 (i) percentage of germination, exclusive of hard seed;
4764 (ii) percentage of hard seed, if present; and
4765 (iii) the calendar month and year the test was completed to determine such percentages;
4766 and

4767 (i) for those species for which standard germination testing procedures have not been
4768 prescribed by the commissioner, the calendar year in which the seed was collected.

4769 (8) Each container of seeds for sprouting offered or exposed for sale or transported for
4770 sowing into this state shall be labeled with the following information:

4771 (a) the name and address of the person who labeled the seed, or who offers or exposes
4772 it for sale in this state;

4773 (b) the commonly accepted name of the kind or kinds in order of predominance;

4774 (c) lot number;

4775 (d) percentage by weight of each pure seed component in excess of 5% of the whole,
4776 other crop seeds, inert matter, and weed seeds, if any;

4777 (e) percentage of germination of each pure seed component; and

4778 (f) the calendar month and year the seed was tested or the year for which the seed was
4779 packaged.

4780 (9) Any written or printed matter of any label shall appear in English.

4781 Section 178. Section **4-16-202**, which is renumbered from Section 4-16-5 is
4782 renumbered and amended to read:

4783 **[4-16-5]. 4-16-202. Distribution of seeds -- Germination tests required -- Date**
4784 **to appear on label -- Seed to be free of noxious weed seed -- Special requirements for**
4785 **treated seeds -- Prohibitions.**

4786 (1) No person in this state shall offer or expose any agricultural, vegetable, flower, or
4787 tree and shrub seed or seeds for sprouting for sale or sowing unless:

4788 (a) (i) for agricultural seeds, including mixtures of agricultural seeds:

4789 (A) a test to determine the percentage of germination has been performed within 18

4790 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and

4791 (B) the date of the test appears on the label;

4792 (ii) for vegetable, flower, or tree and shrub seed or seeds for sprouting:

4793 (A) a test to determine the percentage of germination has been performed within nine

4794 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and

4795 (B) the date of the test appears on the label;

4796 (iii) for hermetically sealed agricultural, vegetable, flower, or tree and shrub seed:

4797 (A) a test to determine the percentage of germination has been performed within 36

4798 months, exclusive of the month the seed is tested and the date the seed is offered for sale;

4799 provided, that hermetically sealed seeds may be offered or exposed for sale after 36 months if

4800 they have been retested for germination within nine months, exclusive of the month the seed is

4801 retested and the date the seeds are offered or exposed for sale; and

4802 (B) the date of the test appears on the label;

4803 (b) its package or other container is truthfully labeled and in accordance with Section

4804 [~~4-16-4~~] 4-16-201; and

4805 (c) it is free of noxious weed seed, subject to any tolerance as may be prescribed by the

4806 department through rule.

4807 (2) The label on any package or other container of an agricultural, vegetable, flower, or

4808 tree and shrub seed which has been treated and for which a claim is made on account of the

4809 treatment, in addition to the labeling requirements specified in Section [~~4-16-4~~] 4-16-201,

4810 shall:

4811 (a) state that the seeds have been treated;

4812 (b) state the commonly accepted name, generic chemical name, or abbreviated

4813 chemical name of the substance used for treatment;

4814 (c) if the seed is treated with an inoculant, state the date beyond which the inoculant is

4815 not considered effective; and

4816 (d) include a caution statement consistent with rules of the department if the treatment

4817 substance remains with the seed in an amount which is harmful to vertebrate animals;

provided, that the caution statement for mercurials and similarly toxic substances, as defined by rule of the department, shall state the seed has been treated with poison with "POISON" printed in red letters on a background of distinctly contrasting color together with a representation of the skull and crossbones.

(3) A person may not:

(a) use the word "trace" as a substitute for a statement required under this chapter;

(b) disseminate any false or misleading advertisement about agricultural, vegetable, flower, or tree and shrub seed or seeds for sprouting; or

(c) detach, alter, or destroy any label or substitute any seed in a manner which defeats the purpose of this chapter.

Section 179. Section ~~4-16-203~~, which is renumbered from Section 4-16-7 is renumbered and amended to read:

~~[4-16-7]~~. **4-16-203. Inspection -- Samples -- Analysis -- Seed testing facilities to be maintained -- Rules to control offensive seeds -- Notice of offending seeds -- Warrants.**

(1) (a) The department shall periodically enter public or private premises from which seeds are distributed, offered, or exposed for sale to sample, inspect, analyze, and test agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting distributed within this state to determine compliance with this chapter.

(b) To perform the duties specified in Subsection (1)(a), the department shall:

(i) establish and maintain facilities for testing the purity and germination of seeds;

(ii) prescribe by rule uniform methods for sampling and testing seeds; and

(iii) establish fees for rendering service.

(2) The department shall prescribe by rule weed seeds and noxious weed seeds and fix the tolerances permitted for those offensive seeds.

(3) (a) If a seed sample, upon analysis, fails to comply with this chapter, the department shall give written notice to that effect to any person who is distributing, offering, or exposing the seeds for sale. ~~[Nothing]~~

(b) Notwithstanding Subsection (3)(a), nothing in this chapter~~[, however,]~~ shall be construed as requiring the department to refer minor violations for criminal prosecution or for the institution of condemnation proceedings if it believes the public interest will best be served through informal action.

(4) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

Section 180. Section **4-16-301**, which is renumbered from Section 4-16-8 is renumbered and amended to read:

Part 3. Enforcement

~~[4-16-8].~~ **4-16-301. Enforcement -- Stop sale, use, or removal authorized -- Court action -- Procedures -- Costs.**

(1) (a) The department may issue a "stop sale, use, or removal order" to the distributor, owner, or person in possession of any designated agricultural, vegetable, flower, or tree and shrub seed or seeds for sprouting or lot of seed which it finds or has reason to believe violates this chapter.

(b) The order shall be in writing and no seed subject to it shall be moved, offered, or exposed for sale, except upon subsequent written release by the department.

(c) Before a release is issued, the department may require the distributor or owner of the "stopped" seed or lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(2) (a) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of any seed which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of this chapter.

(b) No bond may be required of the department in an injunctive proceeding brought under this section.

(3) (a) If condemnation is ordered, the seed shall be disposed of as the court directs.

(b) The court may not order condemnation without giving the claimant of the seed an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the seed into conformance, or for permission to remove it from the state.

(c) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the seed.

Section 181. Section **4-16-302**, which is renumbered from Section 4-16-10 is renumbered and amended to read:

~~[4-16-10].~~ 4-16-302. False or misleading advertising with respect to seed quality prohibited.

Unless agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting sold, advertised, or exposed or offered for sale in this state for propagation or planting have been registered or certified by an officially recognized seed certifying agency approved and accredited in this state, a person may not:

(1) use orally or in writing:

(a) the term "foundation," "registered," or "certified" seed along with other words; or

(b) any other term or form of words which suggests that the seed has been certified or registered by an inspection agency duly authorized by any state, or that there has been registration or certification, or either; or

(2) use any tags similar to registration or certification tags.

Section 182. Section **4-16-303**, which is renumbered from Section 4-16-11 is renumbered and amended to read:

~~[4-16-11].~~ 4-16-303. Distributors of seed to keep record of each lot of seed distributed.

(1) Each person whose name appears on the label of agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting shall keep:

(a) a complete record of each lot of agricultural, vegetable, flower, tree and shrub seed or seeds for sprouting distributed in this state for a period of two years; and

(b) a file sample of each lot of seed for a period of one year after final disposition of

4902 the lot.

4903 (2) The records and samples pertaining to the distribution of the seeds shall be
4904 available to the department for inspection during regular business hours.

4905 Section 183. Section **4-16-401**, which is renumbered from Section 4-16-9 is
4906 renumbered and amended to read:

4907 **Part 4. Testing**

4908 ~~[4-16-9].~~ **4-16-401. Designation of official testing agency for certification of**
4909 **seed.**

4910 (1) The agricultural experiment station at Utah State University is designated as the
4911 official state agency responsible for the production, approval, and testing of foundation seeds in
4912 this state.

4913 (2) This agency shall perform all functions necessary for seed certification including
4914 the determination of the adaptability of established and new crop varieties for planting in this
4915 state, whether produced in this state or elsewhere and the determination of eligibility of crop
4916 varieties for registration and certification in the state.

4917 (3) In performing its responsibility, the experiment station may contract, subject to
4918 available funds, upon such terms and conditions as it ~~[deems]~~ considers appropriate with a
4919 private seed certifying agency.

4920 Section 184. Section **4-16-501**, which is renumbered from Section 4-16-6 is
4921 renumbered and amended to read:

4922 **Part 5. Exemption**

4923 ~~[4-16-6].~~ **4-16-501. Chapter does not apply to seed not intended for sowing,**
4924 **to seed at seed processing plant, or to seed transported or delivered for transportation in**
4925 **the ordinary course of business.**

4926 (1) This chapter does not apply to:

4927 ~~[(1)]~~ (a) seed or grain not intended for sowing;

4928 ~~[(2)]~~ (b) subject to Subsection (2), seed at, or consigned to, a seed processing or
4929 cleaning plant; ~~[provided, that any label or any other representation which is made with respect~~

4930 to the uncleaned or unprocessed seed is subject to this chapter;] or
4931 ~~[(3)]~~ (c) to any carrier in respect to any seed transported or delivered for transportation
4932 in the ordinary course of its business as a carrier[; provided, the carrier is not engaged in
4933 producing, processing, or marketing agricultural, vegetable, flower, or tree and shrub seeds or
4934 seeds for sprouting].

4935 (2) Any label or other representation which is made with respect to seed described in
4936 Subsection (1)(b) is made with respect to the uncleaned or unprocessed seed is subject to this
4937 chapter.

4938 (3) A carrier described in Subsection (1)(c) may not be engaged in producing,
4939 processing, or marketing agricultural, vegetable, flower, or tree and shrub seeds or seeds for
4940 sprouting.

4941 Section 185. Section **4-17-101**, which is renumbered from Section 4-17-1 is
4942 renumbered and amended to read:

4943 **CHAPTER 17. UTAH NOXIOUS WEED ACT**

4944 ~~[4-17-1].~~ **4-17-101. Title.**

4945 This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Noxious Weed Act."

4946 Section 186. Section **4-17-102**, which is renumbered from Section 4-17-2 is
4947 renumbered and amended to read:

4948 ~~[4-17-2].~~ **4-17-102. Definitions.**

4949 As used in this chapter:

4950 (1) "Commission" means the county legislative body of ~~[the counties]~~ each county of
4951 this state.

4952 (2) "Commissioner" means the commissioner of agriculture and food or the
4953 commissioner's representative.

4954 (3) "County noxious weed" means any plant ~~[which]~~ that is:

4955 (a) not on the state noxious weed list[; is];

4956 (b) especially troublesome in a particular county[;]; and [is]

4957 (c) declared by the county legislative body to be a noxious weed within [its] the county.

(4) "Noxious weed" means any plant the commissioner determines to be especially injurious to public health, crops, livestock, land, or other property.

Section 187. Section **4-17-103**, which is renumbered from Section 4-17-3 is renumbered and amended to read:

~~[4-17-3].~~ 4-17-103. Commissioner -- Functions, powers, and duties.

The commissioner ~~[has the following powers and duties]~~ or the commissioner's designee shall:

(1) ~~[investigates and designates]~~ investigate and designate noxious weeds on a statewide basis;

(2) ~~[compiles and publishes]~~ compile and publish annually a list of statewide noxious weeds;

(3) ~~[coordinates and assists]~~ coordinate and assist in inter-county noxious weed enforcement activities;

(4) ~~[determines]~~ determine whether each county complies with this chapter;

(5) ~~[assists]~~ assist a county ~~[which]~~ that fails to carry out the provisions of this chapter in ~~[its]~~ the county's implementation of a weed control program;

(6) ~~[prescribes]~~ prescribe the form and general substantive content of notices to the public and to individuals concerning the prevention and control of noxious weeds;

(7) ~~[compiles and publishes]~~ compile and publish a list of articles capable of disseminating noxious weeds or seeds and designate treatment to prevent dissemination; and

(8) ~~[regulates]~~ regulate the flow of contaminated articles into the state and between counties to prevent the dissemination of noxious weeds or seeds.

Section 188. Section **4-17-104**, which is renumbered from Section 4-17-3.5 is renumbered and amended to read:

~~[4-17-3.5].~~ 4-17-104. Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses.

(1) There is created a State Weed Committee composed of eight members, with each member representing one of the following:

- 4986 (a) the Department of Agriculture and Food;
4987 (b) the Department of Natural Resources;
4988 (c) the Utah State University Agricultural Experiment Station;
4989 (d) the Utah State University Extension Service;
4990 (e) the Utah Association of Counties;
4991 (f) private agricultural industry;
4992 (g) the Utah Weed Control Association; and
4993 (h) the Utah Weed Supervisors Association.
- 4994 (2) The commissioner shall select the members of the committee from those nominated
4995 by each of the respective groups or agencies following approval by the Agricultural Advisory
4996 Board.
- 4997 (3) (a) Except as required by Subsection (3)(b), as terms of current committee members
4998 expire, the commissioner shall appoint each new member or reappointed member to a four-year
4999 term.
- 5000 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
5001 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
5002 committee members are staggered so that approximately half of the committee is appointed
5003 every two years.
- 5004 (4) (a) Members may be removed by the commissioner for cause.
- 5005 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
5006 appointed for the unexpired term.
- 5007 (5) The State Weed Committee shall:
- 5008 (a) confer and advise on matters pertaining to the planning, implementation, and
5009 administration of the state noxious weed program;
- 5010 (b) recommend names for membership on the committee; and
5011 (c) serve as members of the executive committee of the Utah Weed Control
5012 Association.
- 5013 (6) A member may not receive compensation or benefits for the member's service, but

5014 may receive per diem and travel expenses in accordance with:

5015 (a) Section 63A-3-106;

5016 (b) Section 63A-3-107; and

5017 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

5018 63A-3-107.

5019 Section 189. Section 4-17-105, which is renumbered from Section 4-17-4 is

5020 renumbered and amended to read:

5021 ~~[4-17-4].~~ **4-17-105. County weed control board -- Appointment --**

5022 **Composition -- Terms -- Removal -- Compensation.**

5023 (1) ~~[Each]~~ A county executive of ~~[the counties]~~ a county may, with the advice and
5024 consent of the county legislative body, appoint a county weed control board comprised of not
5025 less than three nor more than five appointed members.

5026 (2) (a) If the county legislative body is the county commission, the chair of the county
5027 legislative body shall appoint one member of the county legislative body who shall act as a
5028 coordinator between the county and the county weed control board.

5029 (b) If the county legislative body is a county council, the county executive shall serve
5030 on the county weed control board and act as coordinator between the county and the county
5031 weed control board.

5032 (3) Two members of the board shall be farmers or ranchers whose primary source of
5033 income is derived from production agriculture.

5034 (4) Members are appointed to four year terms of office and serve with or without
5035 compensation as determined by each county legislative body.

5036 (5) Members may be removed for cause and any vacancy ~~[which]~~ that occurs on a
5037 county weed control board shall be filled by appointment for the unexpired term of the vacated
5038 member.

5039 Section 190. Section 4-17-106, which is renumbered from Section 4-17-4.5 is

5040 renumbered and amended to read:

5041 ~~[4-17-4.5].~~ **4-17-106. Commissioner may require county weed control board to**

5042 **justify failure to enforce provisions.**

5043 If the commissioner determines that the weed control board of any county has failed to
5044 perform ~~[its]~~ the board's duties under this chapter, the commissioner may require the board to
5045 justify, in writing, ~~[its]~~ the board's failure to enforce these provisions within ~~[its]~~ the board's
5046 county.

5047 Section 191. Section **4-17-107**, which is renumbered from Section 4-17-5 is
5048 renumbered and amended to read:

5049 ~~[4-17-5].~~ **4-17-107. County weed control board responsible for control of**
5050 **noxious weeds -- Cooperation with other county boards -- Authority to designate noxious**
5051 **weed -- Public hearing before removal of noxious weed from state list.**

5052 (1) A county weed control board is responsible, under the general direction of the
5053 county executive, for the formulation and implementation of a county-wide coordinated
5054 noxious weed control program designed to prevent and control noxious weeds within ~~[its]~~ the
5055 board's county.

5056 (2) A county weed control board is required, under the general direction of ~~[its]~~ the
5057 board's commission, to cooperate with other county weed control boards to prevent and control
5058 the spread of noxious weeds.

5059 (3) (a) A county legislative body may declare a particular weed or competitive plant,
5060 not appearing on the state noxious weed list, a county noxious weed within ~~[its county, or the]~~
5061 the board's county.

5062 (b) A county executive, with the approval of the county legislative body, may petition
5063 the commissioner for removal of a particular noxious weed from the state noxious weed list.

5064 (c) The county legislative body may not approve a petition of the county executive to
5065 the commissioner to remove a noxious weed unless ~~[it]~~ the county legislative body has first
5066 conducted a public hearing after due notice.

5067 Section 192. Section **4-17-108**, which is renumbered from Section 4-17-6 is
5068 renumbered and amended to read:

5069 ~~[4-17-6].~~ **4-17-108. Weed control supervisor -- Qualification -- Appointment**

5070 -- Duties.

5071 (1) (a) Each commission may employ one or more weed control supervisors qualified
5072 to:

5073 (i) detect and treat noxious weeds; and

5074 (ii) direct the weed control program for the county weed control board.

5075 (b) A person may be a weed control supervisor for more than one county weed control
5076 board.

5077 (c) Terms and conditions of employment shall be prescribed by the commission.

5078 (2) A supervisor, under the direction of the local county weed control board, shall:

5079 (a) examine all land under the jurisdiction of the county weed control board to
5080 determine whether this chapter and the rules adopted by the department have been met;

5081 (b) compile data on infested areas;

5082 (c) consult and advise upon matters pertaining to the best and most practical method of
5083 noxious weed control and prevention;

5084 (d) render assistance and direction for the most effective control and prevention;

5085 (e) investigate violations of this chapter;

5086 (f) enforce noxious weed controls within the county; and

5087 (g) perform any other duties required by the county weed control board.

5088 Section 193. Section ~~4-17-109~~, which is renumbered from Section 4-17-7 is
5089 renumbered and amended to read:

5090 ~~[4-17-7]~~. **4-17-109. Notice of noxious weeds to be published annually in**
5091 **county -- Notice to particular property owners to control noxious weeds -- Methods of**
5092 **prevention or control specified -- Failure to control noxious weeds considered public**
5093 **nuisance.**

5094 (1) Each county weed control board before May 1 of each year shall post a general
5095 notice of the noxious weeds within the county in at least three public places within the county
5096 and publish the same notice on:

5097 (a) at least three occasions in a newspaper or other publication of general circulation

5098 within the county; and

5099 (b) as required in Section 45-1-101.

5100 (2) (a) If the county weed control board determines that particular property within the
5101 county requires prompt and definite attention to prevent or control noxious weeds, [it] the
5102 county weed control board shall serve the owner or the person in possession of the property,
5103 personally or by certified mail, a notice specifying when and what action is required to be taken
5104 on the property.

5105 (b) Methods of prevention or control may include definite systems of tillage, cropping,
5106 use of chemicals, and use of livestock.

5107 (3) An owner or person in possession of property who fails to take action to control or
5108 prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

5109 Section 194. Section 4-17-110, which is renumbered from Section 4-17-8 is
5110 renumbered and amended to read:

5111 ~~[4-17-8].~~ **4-17-110. Noxious weeds -- Failure to control after notice of**
5112 **nuisance -- Notice and hearing -- Control at county expense -- Owner liable for county**
5113 **costs -- Charges lien against property.**

5114 (1) If the owner or person in possession of the property fails to take action to control or
5115 prevent the spread of noxious weeds within five working days after the property is declared a
5116 public nuisance, the county may, after reasonable notification, enter the property, without the
5117 consent of the owner or the person in possession, and perform any work necessary, consistent
5118 with sound weed prevention and control practices, to control the weeds.

5119 ~~[(2) Any expense incurred by the county in controlling the noxious weeds is paid by~~
5120 ~~the]~~

5121 (2) (a) If the county controls weeds on a piece of property, as described in Subsection
5122 (1), and seeks reimbursement from the property owner of record or the person in possession of
5123 the property, the county shall send the property owner or person in possession of the property a
5124 documented description of the expense and a demand for payment within 30 days of the day on
5125 which the weed control took place.

(b) The property owner of record or the person in possession of the property, as the case may be, shall reimburse the county for the county's expense within 90 days after receipt of the ~~[charges incurred by the county.]~~ demand for payment, as described in Subsection (2)(a).

(c) If the demand for payment is not paid within 90 days after ~~[notice of the charges]~~ receipt, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.

Section 195. Section **4-17-111**, which is renumbered from Section 4-17-8.5 is renumbered and amended to read:

~~[4-17-8.5].~~ 4-17-111. Hearing before county weed control board -- Appeal of decision to the county legislative body -- Judicial review.

(1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the county weed control board within 10 days of receipt of such notice and may appeal the decision of the county weed control board to the county legislative body.

(2) Any person served with notice to control noxious weeds who has had a hearing before both the county weed control board and the county legislative body may further appeal the decision of the county legislative body by filing written notice of appeal with a court of competent jurisdiction.

Section 196. Section **4-17-112**, which is renumbered from Section 4-17-10 is renumbered and amended to read:

~~[4-17-10].~~ 4-17-112. Jurisdiction of state and local agencies to control weeds.

The departments or agencies of state and local governments shall develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under ~~[their]~~ the department's or agency's control or jurisdiction, including highways, roadways, rights-of-way, easements, game management areas, and state parks and recreation areas.

Section 197. Section **4-17-113**, which is renumbered from Section 4-17-11 is renumbered and amended to read:

5154 ~~[4-17-11].~~ **4-17-113. County noxious weed control fund authorized.**

5155 ~~[Authority is hereby granted commissions to]~~ A commission may establish and
5156 maintain a noxious weed control fund in each county for use in the administration of this
5157 chapter.

5158 Section 198. Section **~~4-17-114~~**, which is renumbered from Section 4-2-8.7 is
5159 renumbered and amended to read:

5160 ~~[4-2-8.7].~~ **4-17-114. Invasive Species Mitigation Account created.**

5161 (1) As used in this section, "project" means an undertaking that:

- 5162 (a) rehabilitates or treats an area infested with, or threatened by, an invasive species; or
5163 (b) conducts research related to invasive species.

5164 (2) (a) There is created a restricted account within the General Fund known as the
5165 "Invasive Species Mitigation Account."

5166 (b) The restricted account shall consist of:

- 5167 (i) money appropriated by the Legislature;
5168 (ii) grants from the federal government; and
5169 (iii) grants or donations from a person.

5170 (3) (a) After consulting with the Department of Natural Resources and the
5171 Conservation Commission, the department may expend money in the restricted account:

5172 (i) on a project implemented by:

5173 (A) the department; or

5174 (B) the Conservation Commission; or

5175 (ii) by giving a grant for a project to:

5176 (A) a state agency;

5177 (B) a federal agency;

5178 (C) a federal, state, tribal, or private landowner;

5179 (D) a political subdivision;

5180 (E) a county weed board;

5181 (F) a cooperative weed management area; or

5182 (G) a university.

5183 (b) The department may use up to 10% of restricted account funds appropriated under
5184 Subsection (2)(b)(i) on:

5185 (i) department administration; or

5186 (ii) project planning, monitoring, and implementation expenses.

5187 (c) A project that receives funds from the Invasive Species Mitigation Account may not
5188 spend more than 10% of an award of funds on planning and administration costs.

5189 (d) A federal landowner that receives restricted account funds for a project shall match
5190 the funds received from the restricted account with an amount that is equal to or greater than
5191 the amount received from the restricted account.

5192 (4) In giving a grant, the department shall consider the effectiveness of a project in the
5193 rehabilitation or treatment of an area infested with, or threatened by, an invasive species.

5194 Section 199. Section ~~4-17-115~~, which is renumbered from Section 4-2-8.6 is
5195 renumbered and amended to read:

5196 ~~[4-2-8.6].~~ **4-17-115. Cooperative agreements and grants to rehabilitate areas**
5197 **infested with or threatened by invasive species.**

5198 After consulting with the Department of Natural Resources and the Conservation
5199 Commission, the department may:

5200 (1) enter into a cooperative agreement with a political subdivision, a state agency, a
5201 federal agency, ~~[or a federal, state, tribal]~~ a tribe, a county weed board, a cooperative weed
5202 management area, a university, or a private landowner to:

5203 (a) rehabilitate or treat an area infested with, or threatened by, an invasive species; or

5204 (b) conduct research related to invasive species;

5205 (2) expend money from the Invasive Species Mitigation Account created in Section
5206 ~~[4-2-8.7]~~ 4-17-114; and

5207 (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5208 make rules to:

5209 (a) administer this section; and

5210 (b) give grants from the Invasive Species Mitigation Account.

5211 Section 200. Section **4-18-102** is amended to read:

5212 **4-18-102. Purpose declaration.**

5213 (1) The Legislature finds and declares that:

5214 (a) the soil and water resources of this state constitute one of [~~its~~] the state's basic
5215 assets; and

5216 (b) the preservation of [~~these~~] soil and water resources requires planning and programs
5217 to ensure:

5218 (i) the development and utilization of [~~these~~] soil and water resources; and

5219 (ii) [~~their~~] soil and water resources' protection from the adverse effects of wind and
5220 water erosion, sediment, and sediment related pollutants.

5221 (2) The Legislature finds that local production of food is essential for:

5222 (a) the security of the state's food supply; and

5223 (b) the self-sufficiency of the state's citizens.

5224 (3) The Legislature finds that sustainable agriculture is critical to:

5225 (a) the success of rural communities;

5226 (b) the historical culture of the state;

5227 (c) maintaining healthy farmland;

5228 (d) maintaining high water quality;

5229 (e) maintaining abundant wildlife;

5230 (f) high-quality recreation for citizens of the state; and

5231 (g) helping to stabilize the state economy.

5232 (4) The Legislature finds that livestock grazing on public lands is important for the
5233 proper management, maintenance, and health of public lands in the state.

5234 (5) The Legislature encourages each agricultural producer in the state to operate in a
5235 reasonable and responsible manner to maintain the integrity of land, soil, water, and air.

5236 (6) [~~For~~] The department shall administer the Utah Agriculture Certificate of
5237 Environmental Stewardship Program, created in Section [4-18-107](#), to encourage each

5238 agricultural producer in this state to operate in a reasonable and responsible manner to maintain
5239 the integrity of the state's resources[~~the state shall administer the Utah Agriculture Certificate~~
5240 ~~of Environmental Stewardship Program, created in Section 4-18-107~~].

5241 Section 201. Section **4-18-104** is amended to read:

5242 **4-18-104. Conservation Commission created -- Composition -- Appointment --**
5243 **Terms -- Compensation -- Attorney general to provide legal assistance.**

5244 (1) There is created within the department the Conservation Commission to perform
5245 the functions specified in this chapter.

5246 (2) The Conservation Commission shall be [~~comprised of 16~~] composed of 15
5247 members, including:

5248 (a) the director of the Extension Service at Utah State University or the director's
5249 designee;

5250 (b) the president of the Utah Association of Conservation Districts or the president's
5251 designee;

5252 (c) the commissioner or the commissioner's designee;

5253 (d) the executive director of the Department of Natural Resources or the executive
5254 director's designee;

5255 (e) the executive director of the Department of Environmental Quality or the executive
5256 director's designee;

5257 (f) the chair [~~and the vice chair~~], or the chair's designee, of the State Grazing Advisory
5258 Board, created in Section [~~4-20-1.5~~] 4-20-103;

5259 (g) the president of the County Weed Supervisors Association;

5260 (h) seven district supervisors who provide district representation on the commission on
5261 a multicounty basis; and

5262 (i) the director of the School and Institutional Trust Lands Administration or the
5263 director's designee.

5264 (3) If a district supervisor is unable to attend a meeting, an alternate may serve in the
5265 place of the district supervisor for that meeting.

- 5266 (4) The members of the commission specified in Subsection (2)(h) shall:
- 5267 (a) be recommended by the commission to the governor; and
- 5268 (b) be appointed by the governor with the consent of the Senate.
- 5269 (5) (a) Except as required by Subsection (5)(b), as terms of current commission
- 5270 members expire, the governor shall appoint each new member or reappointed member to a
- 5271 four-year term.
- 5272 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
- 5273 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
- 5274 commission members are staggered so that approximately half of the commission is appointed
- 5275 every two years.
- 5276 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
- 5277 appointed for the unexpired term.
- 5278 (7) The commissioner is chair of the commission.
- 5279 (8) Attendance of a majority of the commission members at a meeting constitutes a
- 5280 quorum.
- 5281 (9) A member may not receive compensation or benefits for the member's service, but
- 5282 may receive per diem and travel expenses in accordance with:
- 5283 (a) Section 63A-3-106;
- 5284 (b) Section 63A-3-107; and
- 5285 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 5286 63A-3-107.
- 5287 (10) The commission shall keep a record of [its] the commission's actions.
- 5288 (11) The attorney general shall provide legal services to the commission upon request.
- 5289 Section 202. Section 4-18-105 is amended to read:
- 5290 **4-18-105. Conservation Commission -- Functions and duties.**
- 5291 (1) The commission shall:
- 5292 (a) facilitate the development and implementation of the strategies and programs
- 5293 necessary to:

- 5294 (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state;
5295 and
- 5296 (ii) promote the protection, integrity, and restoration of land for agricultural and other
5297 beneficial purposes;
- 5298 (b) disseminate information regarding districts' activities and programs;
- 5299 (c) supervise the formation, reorganization, or dissolution of districts according to the
5300 requirements of Title 17D, Chapter 3, Conservation District Act;
- 5301 (d) prescribe uniform accounting and recordkeeping procedures for districts and
5302 require each district to submit annually an audit of ~~[its]~~ the district's funds to the commission;
- 5303 (e) approve and make loans for agricultural purposes, through the advisory board
5304 described in Section 4-18-106, from the Agriculture Resource Development Fund, for:
- 5305 (i) rangeland improvement and management projects;
- 5306 (ii) watershed protection and flood prevention projects;
- 5307 (iii) agricultural cropland soil and water conservation projects;
- 5308 (iv) programs designed to promote energy efficient farming practices; and
- 5309 (v) programs or improvements for agriculture product storage or protections of a crop
5310 or animal resource;
- 5311 (f) administer federal or state funds, including loan funds under this chapter, in
5312 accordance with applicable federal or state guidelines and make loans or grants from those
5313 funds to land occupiers for:
- 5314 (i) conservation of soil or water resources;
- 5315 (ii) maintenance of rangeland improvement projects;
- 5316 (iii) development and implementation of coordinated resource management plans, as
5317 defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and
- 5318 (iv) control or eradication of noxious weeds and invasive plant species:
- 5319 (A) in cooperation and coordination with local weed boards; and
- 5320 (B) in accordance with Section ~~[4-2-8.7]~~ 4-17-114;
- 5321 (g) seek to coordinate soil and water protection, conservation, and development

5322 activities and programs of state agencies, local governmental units, other states, special interest
5323 groups, and federal agencies;

5324 (h) plan watershed and flood control projects in cooperation with appropriate local,
5325 state, and federal authorities, and coordinate flood control projects in the state;

5326 (i) assist other state agencies with conservation standards for agriculture when
5327 requested; and

5328 (j) when assigned by the governor, when required by contract with the Department of
5329 Environmental Quality, or when required by contract with the United States Environmental
5330 Protection Agency:

5331 (i) develop programs for the prevention, control, or abatement of new or existing
5332 pollution to the soil, water, or air of the state;

5333 (ii) advise, consult, and cooperate with affected parties to further the purpose of this
5334 chapter;

5335 (iii) conduct studies, investigations, research, and demonstrations relating to
5336 agricultural pollution issues;

5337 (iv) give reasonable consideration in the exercise of its powers and duties to the
5338 economic impact on sustainable agriculture;

5339 (v) meet the requirements of federal law related to water and air pollution in the
5340 exercise of ~~[its]~~ the commission's powers and duties; and

5341 (vi) establish administrative penalties relating to agricultural discharges as defined in
5342 Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

5343 (2) The commission may:

5344 (a) employ, with the approval of the department, an administrator and necessary
5345 technical experts and employees;

5346 (b) execute contracts or other instruments necessary to exercise its powers;

5347 (c) take necessary action to promote and enforce the purpose and findings of Section
5348 4-18-102;

5349 (d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

~~[(3) If, under Subsection (2)(a), the commission employs an individual who was formerly an employee of a conservation district or the Utah Association of Conservation Districts, the Department of Human Resource Management shall:]~~

~~[(a) recognize the employee's employment service credit from the conservation district or association in determining leave accrual in the employee's new position within the state; and]~~

~~[(b) set the initial wage rate for the employee at the level that the employee was receiving as an employee of the conservation district or association:]~~

~~[(4) An employee described in Subsection (3) is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, and shall be designated under schedule codes and parameters established by the Department of Human Resource Management under Subsection 67-19-15(1)(p) until the commission, under parameters established by the Department of Human Resource Management, designates the employee under a different schedule recognized under Section 67-19-15.]~~

~~[(5)(a) For purposes of the report required by Subsection (5)(b), the commissioner shall study the organizational structure of the employees described in Subsection (3).]~~

~~[(b) The commissioner shall report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than that subcommittee's November 2015 interim meeting regarding the study required by Subsection (5)(a).]~~

Section 203. Section **4-18-106** is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Authority board.

(1) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

(2) The Agriculture Resource Development Fund shall consist of:

- 5378 (a) money appropriated to it by the Legislature;
- 5379 (b) sales and use tax receipts transferred to the fund in accordance with Section
- 5380 59-12-103;
- 5381 (c) money received for the repayment of loans made from the fund;
- 5382 (d) money made available to the state for agriculture resource development from any
- 5383 source; and
- 5384 (e) interest earned on the fund.
- 5385 (3) The commission shall make loans from the Agriculture Resource Development
- 5386 Fund as provided by Subsections 4-18-105(1)(e)(i) through (iv).
- 5387 (4) The commission may appoint an advisory board that shall:
- 5388 (a) oversee the award process for loans, as described in this section;
- 5389 (b) make recommendations to the commission regarding loans; and
- 5390 (c) recommend ~~[the]~~ policies and procedures for the Agriculture Resource
- 5391 Development Fund~~[;]~~ that are consistent with statute.
- 5392 Section 204. Section 4-18-107 is amended to read:
- 5393 **4-18-107. Utah Agriculture Certificate of Environmental Stewardship Program.**
- 5394 (1) There is created the Utah Agriculture Certificate of Environmental Stewardship
- 5395 Program.
- 5396 (2) The commission, with the assistance of the department and with the advice of the
- 5397 Water Quality Board~~[;]~~ created in Section 19-1-106, shall make rules in accordance with Title
- 5398 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:
- 5399 (a) (i) best management practices;
- 5400 (ii) state technical standards; and
- 5401 (iii) guidelines for nutrient management plans;
- 5402 (b) requirements for qualification under the Utah Agriculture Certificate of
- 5403 Environmental Stewardship Program that:
- 5404 (i) are consistent with sustainable agriculture;
- 5405 (ii) help prevent harm to the environment, including prevention of an agricultural

5406 discharge; and

5407 (iii) encourage agricultural operations in the state to follow:

5408 (A) best management practices; and

5409 (B) nutrient management plans that meet the state technical standards appropriate for

5410 each type of agricultural operation;

5411 (c) the procedure for qualification under the Utah Agriculture Certificate of

5412 Environmental Stewardship Program;

5413 (d) the requirements and certification process for an individual to become a certified

5414 conservation planner; and

5415 (e) standards and procedures for administering the Utah Agriculture Certificate of

5416 Environmental Stewardship Program, including:

5417 (i) renewal of a certification under Subsection (4)(b);

5418 (ii) investigation and revocation of a certification under Subsection (6); and

5419 (iii) revocation of a certification under Subsection (7)(b).

5420 (3) An owner or operator of an agricultural operation may apply to certify the

5421 agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship

5422 Program in accordance with this section.

5423 (4) (a) Except as provided in Subsection (6) or (7), a certified agricultural operation

5424 remains certified for a period of five years after the day on which the agricultural operation

5425 becomes certified.

5426 (b) A certified agricultural operation may, in accordance with commission rule, renew

5427 the certification for an additional five years to keep the certification for a total period of 10

5428 years after the day on which the agricultural operation becomes certified.

5429 (5) Subject to review by the commissioner or the commissioner's designee, a certified

5430 conservation planner shall certify each qualifying agricultural operation that applies to the Utah

5431 Agriculture Certificate of Environmental Stewardship Program.

5432 (6) (a) Upon request of the Department of Environmental Quality or upon receipt by

5433 the department of a citizen environmental complaint, the department shall, with the assistance

of certified conservation planners as necessary, investigate a certified agricultural operation to determine whether the agricultural operation has committed a significant violation of the requirements of the Utah Agriculture Certificate of Environmental Stewardship Program.

(b) If, after completing an investigation described in Subsection (6)(a), the department determines that a certified agricultural operation has committed a significant violation of the requirements for the Utah Agriculture Certificate of Environmental Stewardship Program, the department shall report the violation to the commission.

(c) Upon receipt of a report described in Subsection (6)(b), the commission shall review the report and:

(i) revoke the agricultural operation's certification; or

(ii) set terms and conditions for the agricultural operation to maintain its certification.

(7) (a) If, for a certification renewal under Subsection (4)(b), or an investigation under Subsection (6)(a), the department requests access to a certified agricultural operation, the certified agricultural operation shall, at a reasonable time, allow access for the department to:

(i) inspect the agricultural operation; or

(ii) review the records of the agricultural operation.

(b) If a certified agricultural operation denies the department access as described in Subsection (7)(a), the commission may revoke the agricultural operation's certification.

(8) If the commission changes a requirement of the Utah Agriculture Certificate of Environmental Stewardship Program after an agricultural operation is certified in accordance with former requirements, during the certification and renewal periods described in Subsections (4)(a) and (b) the agricultural operation may choose whether to abide by a new requirement, but the agricultural operation is not subject to the new requirement until the agricultural operation reapplies for certification.

(9) Nothing in this section exempts an agricultural discharge made by a certified agricultural operation from the provisions of Subsection 19-5-105.5(3)(b).

(10) (a) Except as provided in Subsections 19-5-105.6(2) and (3), a certified agriculture operation may not be required to implement additional projects or best management practices

5462 to address nonpoint source discharges.

5463 (b) The Division of Water Quality shall consider an agriculture operation's compliance
5464 with certification under an approved agriculture environmental stewardship program a
5465 mitigating factor for penalty purposes, as provided in Section 19-5-105.6.

5466 Section 205. Section 4-18-108 is amended to read:

5467 **4-18-108. Grants for environmental improvement projects -- Criteria for award**
5468 **-- Duties of commission.**

5469 (1) (a) Subject to appropriation, the commission, as described in Subsection (4), may
5470 make a grant to an owner or operator of a farm or ranch to pay for the costs of plans or projects
5471 to improve manure management, control surface water runoff, or address other environmental
5472 issues on the farm or ranch operation, including the costs of preparing or implementing a
5473 nutrient management plan.

5474 (b) The commission shall make a grant described in Subsection (1)(a) from funds
5475 appropriated by the Legislature for that purpose.

5476 (2) (a) In awarding a grant, the commission shall consider the following criteria:

5477 (i) the ability of the grantee to pay for the costs of plans or projects to improve manure
5478 management or control surface water runoff;

5479 (ii) the availability of:

5480 (A) matching funds provided by the grantee or another source; or

5481 (B) material, labor, or other items of value provided in lieu of money by the grantee or
5482 another source; and

5483 (iii) the benefits that accrue to the general public by the awarding of a grant.

5484 (b) The commission may establish by rule additional criteria for the awarding of a
5485 grant.

5486 (3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
5487 Administrative Rulemaking Act, to implement this section.

5488 (4) The commission:

5489 (a) shall be responsible for awarding a grant or loan for water quality or other

5490 environmental issues; and

5491 (b) may appoint an advisory board to:

5492 (i) assist with the award process; and

5493 (ii) make recommendations to the commission regarding awards.

5494 Section 206. Section **4-18-201** is enacted to read:

5495 **Part 2. Salinity Offset Fund**

5496 **4-18-201. Title -- Definitions.**

5497 (1) This part is known as "Salinity Offset Fund."

5498 (2) As used in this part, "Colorado River Salinity Offset Program" means a program,
5499 administered by the Division of Water Quality, allowing oil, gas, or mining companies and
5500 other entities to provide funds to finance salinity reduction projects in the Colorado River
5501 Basin by purchasing salinity credits as offsets against discharges made by the company under
5502 permits issued by the Division of Water Quality.

5503 Section 207. Section **4-18-202**, which is renumbered from Section 4-2-8.5 is
5504 renumbered and amended to read:

5505 ~~[4-2-8.5].~~ **4-18-202. Salinity Offset Fund.**

5506 ~~[(1) As used in this section, "Colorado River Salinity Offset Program" means a~~
5507 ~~program, administered by the Division of Water Quality, allowing oil, gas, or mining~~
5508 ~~companies and other entities to provide funds to finance salinity reduction projects in the~~
5509 ~~Colorado River Basin by purchasing salinity credits as offsets against discharges made by the~~
5510 ~~company under permits issued by the Division of Water Quality.]~~

5511 ~~[(2)]~~ (1) (a) There is created an expendable special revenue fund known as the "Salinity
5512 Offset Fund."

5513 (b) The fund shall consist of:

5514 (i) money received from the Division of Water Quality that has been collected as part
5515 of the Colorado River Salinity Offset Program;

5516 (ii) grants from local governments, the state, or the federal government;

5517 (iii) grants from private entities; and

5518 (iv) interest on fund money.

5519 [~~(3)~~] (2) (a) The department shall:

5520 (i) subject to the rules established under Subsection [~~(3)~~] (2)(a)(ii), distribute fund
5521 money to farmers, ranchers, mutual irrigation companies, and other entities in the state to assist
5522 in financing irrigation, rangeland, and watershed improvement projects that will, in accordance
5523 with the Colorado River Salinity Offset Program, reduce salinity in the Colorado River; and

5524 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5525 make rules establishing:

5526 (A) a project funding application process;

5527 (B) project funding requirements;

5528 (C) project approval criteria; and

5529 (D) standards for evaluating the effectiveness of funded projects in reducing salinity in
5530 the Colorado River.

5531 (b) The department may require entities seeking fund money to provide matching
5532 funds.

5533 (c) The department shall submit to the Division of Water Quality proposed funding
5534 projects for the division's review and approval.

5535 (d) The Division of Water Quality and the department shall establish a committee to
5536 review and approve projects, as funding allows.

5537 [~~(4)~~] (3) (a) Except as provided in Subsection [~~(4)~~] (3)(b), the department may use fund
5538 money for the administration of the fund, but this amount may not exceed 10% of the receipts
5539 to the fund.

5540 (b) The department may not use earned interest for administration of the fund.

5541 Section 208. Section **4-19-101** is enacted to read:

5542 **CHAPTER 19. RURAL REHABILITATION**

5543 **4-19-101. Title.**

5544 This chapter is known as "Rural Rehabilitation."

5545 Section 209. Section **4-19-102**, which is renumbered from Section 4-19-1 is

5546 renumbered and amended to read:

5547 ~~[4-19-1].~~ **4-19-102. Department responsible for conduct and administration**
5548 **of rural rehabilitation program.**

5549 The department shall conduct and administer the rural rehabilitation program within the
5550 state in accordance with the agreement entered into in January 1975, between the United States
5551 of America through its Farm Home Administration and the state through its commissioner.

5552 Section 210. Section **4-19-103**, which is renumbered from Section 4-19-2 is
5553 renumbered and amended to read:

5554 ~~[4-19-2].~~ **4-19-103. Department authorized to approve and make grants and**
5555 **loans, acquire property, and lease or operate property.**

5556 The department, in conjunction with the administration of the rural rehabilitation
5557 program, may:

5558 (1) approve and make a loan to a farm or agricultural cooperative association regulated
5559 under Title 3, Uniform Agricultural Cooperative Association Act, subject to Section ~~[4-19-3]~~
5560 4-19-104, including:

5561 (a) taking security for the loan through a mortgage, trust deed, pledge, or other security
5562 device;

5563 (b) purchasing a promissory note, real estate contract, mortgage, trust deed, or other
5564 instrument or evidence of indebtedness; and

5565 (c) collecting, compromising, canceling, or adjusting a claim or obligation arising out
5566 of the administration of the rural rehabilitation program;

5567 (2) purchase or otherwise obtain property in which the department has acquired an
5568 interest on account of a mortgage, trust deed, lien, pledge, assignment, judgment, or other
5569 means at any execution or foreclosure sale;

5570 (3) operate or lease, if necessary to protect its investment, property in which it has an
5571 interest, or sell or otherwise dispose of the property; and

5572 (4) approve and make an education loan or an education grant to an individual for the
5573 purpose of attending a vocational school, college, or university to obtain additional education,

5574 qualifications, or skills.

5575 Section 211. Section **4-19-104**, which is renumbered from Section 4-19-3 is
5576 renumbered and amended to read:

5577 ~~[4-19-3].~~ **4-19-104. Loans -- Not to exceed period of 10 years -- Agricultural**
5578 **Advisory Board to approve loans and renewals, methods of payments, and interest rates**
5579 **-- Guidelines in fixing interest rates declared.**

5580 (1) The department may not make a loan authorized under this chapter for a period to
5581 exceed 10 years, but the loan is renewable.

5582 (2) ~~[The]~~ Except as provided in Subsection (5), the Agricultural Advisory Board
5583 created in Section [4-2-108](#) shall approve:

- 5584 (a) all loans and renewals;
5585 (b) the methods of repayment; and
5586 (c) the interest rates charged.

5587 (3) In fixing interest rates, the Agricultural Advisory Board shall consider:

- 5588 (a) the current applicable interest rate or rates being charged by the USDA Farm
5589 Service Agency on similar loans;
5590 (b) the current prime rate charged by leading lending institutions; and
5591 (c) any other pertinent economic data.

5592 (4) The interest rates established shall be compatible with guidelines stated in this
5593 section.

5594 (5) The Agricultural Advisory Board may create a subcommittee from the board's
5595 membership to approve a loan or renewal under this section.

5596 Section 212. Section **4-19-105**, which is renumbered from Section 4-19-4 is
5597 renumbered and amended to read:

5598 ~~[4-19-4].~~ **4-19-105. Utah Rural Rehabilitation Fund.**

5599 (1) The department shall deposit all income generated from the administration of the
5600 rural rehabilitation program in a separate fund known as the "Utah Rural Rehabilitation Fund."

5601 (2) The state treasurer shall maintain the Utah Rural Rehabilitation Fund and record all

debits and credits made to the fund by the department.

Section 213. Section ~~4-20-101~~, which is renumbered from Section 4-20-1 is renumbered and amended to read:

CHAPTER 20. RANGELAND IMPROVEMENT ACT

~~[4-20-1].~~ **4-20-101. Title.**

~~[(1)]~~ This chapter is known as the "Rangeland Improvement Act."

~~[(2) As used in this chapter:]~~

~~[(a) "Cooperative weed management association" means a multigovernmental association cooperating together to control noxious weeds in a geographic area that includes some portion of Utah.]~~

~~[(b) "Fees" mean the revenue collected by the United States Secretary of Interior from assessments on livestock using public lands:]~~

~~[(c) "Grazing district" means an administrative unit of land:]~~

~~[(i) designated by the commissioner as being valuable for grazing and for raising forage crops; and]~~

~~[(ii) which consists of any combination of the following:]~~

~~[(A) public land;]~~

~~[(B) private land;]~~

~~[(C) state land; and]~~

~~[(D) school and institutional trust land as defined in Section ~~53C-1-103~~.]~~

~~[(d) "Public lands" mean vacant, unappropriated, reserved, and unreserved federal lands:]~~

~~[(e) "Regional board" means a regional grazing advisory board whose members are appointed under Section ~~4-20-1.6~~.]~~

~~[(f) "Restricted account" means the Rangeland Improvement Account created in Section ~~4-20-2~~.]~~

~~[(g) "Sales" or "leases" mean the sale or lease, respectively, of isolated or disconnected tracts of public lands by the United States Secretary of Interior:]~~

5630 ~~[(h) "State board" means the State Grazing Advisory Board created under Section~~
5631 ~~4-20-1.5;]~~

5632 Section 214. Section **4-20-102** is enacted to read:

5633 **4-20-102. Definitions.**

5634 As used in this chapter:

5635 (1) "Cooperative weed management association" means a multigovernmental
5636 association cooperating to control noxious weeds in a geographic area that includes some
5637 portion of Utah.

5638 (2) "Fees" means the revenue collected by the United States secretary of interior from
5639 assessments on livestock using public lands.

5640 (3) "Grazing district" means an administrative unit of land:

5641 (a) designated by the commissioner as valuable for grazing and for raising forage
5642 crops; and

5643 (b) that consists of any combination of the following:

5644 (i) public lands;

5645 (ii) private land;

5646 (iii) state land; and

5647 (iv) school and institutional trust land as defined in Section [53C-1-103](#).

5648 (4) "Public lands" mean vacant, unappropriated, reserved, and unreserved federal
5649 lands.

5650 (5) "Regional board" means a regional grazing advisory board with members appointed
5651 under Section [4-20-104](#).

5652 (6) "Restricted account" means the Rangeland Improvement Account created in
5653 Section [4-20-105](#).

5654 (7) "Sales" or "leases" means the sale or lease, respectively, of isolated or disconnected
5655 tracts of public lands by the United States secretary of interior.

5656 (8) "State board" means the State Grazing Advisory Board created under Section
5657 [4-20-103](#).

5658 Section 215. Section **4-20-103**, which is renumbered from Section 4-20-1.5 is
5659 renumbered and amended to read:

5660 **~~[4-20-1.5].~~ 4-20-103. State Grazing Advisory Board -- Duties.**

5661 (1) (a) There is created within the department the State Grazing Advisory Board.

5662 (b) The commissioner shall appoint the following members:

5663 (i) one member from each regional board;

5664 (ii) one member from the Conservation Commission, created in Section **4-18-104**;

5665 (iii) one representative of the Department of Natural Resources;

5666 (iv) two livestock producers at-large; and

5667 (v) one representative of the oil, gas, or mining industry.

5668 (2) The term of office for a state board member is four years.

5669 (3) Members of the state board shall elect a chair, who shall serve for two years.

5670 (4) A member may not receive compensation or benefits for the member's service but
5671 may receive per diem and travel expenses in accordance with:

5672 (a) Section **63A-3-106**;

5673 (b) Section **63A-3-107**; and

5674 (c) rules made by the Division of Finance pursuant to Sections **63A-3-106** and
5675 **63A-3-107**.

5676 (5) The state board shall:

5677 (a) receive:

5678 (i) advice and recommendations from a regional board concerning:

5679 (A) management plans for public lands, state lands, and school and institutional trust
5680 lands as defined in Section **53C-1-103**, within the regional board's region; and

5681 (B) any issue that impacts grazing on private lands, public lands, state lands, or school
5682 and institutional trust lands as defined in Section **53C-1-103**, in its region; and

5683 (ii) requests for restricted account money from the entities described in Subsections
5684 (5)(c)(i) through (iv);

5685 (b) recommend state policy positions and cooperative agency participation in federal

5686 and state land management plans to the department and to the Public Lands Policy
5687 Coordinating Office, created under Section [63J-4-602](#); and

5688 (c) advise the department on the requests and recommendations of:

5689 (i) regional boards;

5690 (ii) county weed control boards, created in Section [\[4-17-4\] 4-17-105](#);

5691 (iii) cooperative weed management associations; and

5692 (iv) conservation districts created under the authority of Title 17D, Chapter 3,
5693 Conservation District Act.

5694 Section 216. Section **4-20-104**, which is renumbered from Section 4-20-1.6 is
5695 renumbered and amended to read:

5696 **~~[4-20-1.6].~~ 4-20-104. Regional grazing advisory boards -- Duties.**

5697 (1) The commissioner shall appoint members to a regional board for each grazing
5698 district from nominations submitted by:

5699 (a) the Utah Cattlemen's Association;

5700 (b) the Utah ~~[Woolgrowers]~~ Woolgrowers Association;

5701 (c) the Utah Farm Bureau Federation; and

5702 (d) a conservation district, if the conservation district's boundaries include some
5703 portion of the grazing district.

5704 (2) Regional boards:

5705 (a) shall provide advice and recommendations to the state board; and

5706 (b) may receive money from the Rangeland Improvement Account created in Section
5707 [\[4-20-2\] 4-20-105](#).

5708 (3) If a regional board receives money as authorized by Subsection (2)(b), the regional
5709 board shall elect a treasurer to expend the money:

5710 (a) as directed by the regional board; and

5711 (b) in accordance with Section [\[4-20-3\] 4-20-106](#).

5712 Section 217. Section **4-20-105**, which is renumbered from Section 4-20-2 is
5713 renumbered and amended to read:

5714 ~~[4-20-2].~~ **4-20-105. Rangeland Improvement Account -- Administered by**
5715 **department.**

5716 (1) (a) There is created a restricted account within the General Fund known as the
5717 "Rangeland Improvement Account."

5718 (b) The restricted account shall consist of:

5719 (i) money received by the state from the United States Secretary of Interior under the
5720 Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and fees;

5721 (ii) grants or appropriations from the state or federal government; and

5722 (iii) grants from private foundations.

5723 (c) Interest earned on the restricted account shall be deposited into the General Fund.

5724 (2) The department shall:

5725 (a) administer the restricted account;

5726 (b) obtain from the United States Department of Interior the receipts collected from:

5727 (i) fees in each grazing district; and

5728 (ii) the receipts collected from the sale or lease of public lands; and

5729 (c) distribute restricted account money in accordance with Section ~~[4-20-3]~~ 4-20-106.

5730 Section 218. Section **4-20-106**, which is renumbered from Section 4-20-3 is

5731 renumbered and amended to read:

5732 ~~[4-20-3].~~ **4-20-106. Rangeland Improvement Account distribution.**

5733 (1) The department shall distribute restricted account money as provided in this
5734 section.

5735 (a) The department shall:

5736 (i) distribute pro rata to each school district the money received by the state under
5737 Subsection ~~[4-20-2]~~ 4-20-105(1)(b)(i) from the sale or lease of public lands based upon the
5738 amount of revenue generated from the sale or lease of public lands within the district; and

5739 (ii) ensure that all money generated from the sale or lease of public lands within a
5740 school district is credited and deposited to the general school fund of that school district.

5741 (b) (i) After the commissioner approves a request from a regional board, the

department shall distribute pro rata to each regional board money received by the state under Subsection [~~4-20-2~~] 4-20-105(1)(b)(i) from fees based upon the amount of revenue generated from the imposition of fees within that grazing district.

(ii) The regional board shall expend money received in accordance with Subsection (2).

(c) (i) The department shall distribute or expend money received by the state under Subsections [~~4-20-2~~] 4-20-105(1)(b)(ii) and (iii) for the purposes outlined in Subsection (2).

(ii) The department may require entities seeking funding from sources outlined in Subsections [~~4-20-2~~] 4-20-105(1)(b)(ii) and (iii) to provide matching funds.

(2) The department shall ensure that restricted account distributions or expenditures under Subsections (1)(b) and (c) are used for:

(a) range improvement and maintenance;

(b) the control of predatory and depredating animals;

(c) the control, management, or extermination of invading species, range damaging organisms, and poisonous or noxious weeds;

(d) the purchase or lease of lands or a conservation easement for the benefit of a grazing district;

(e) watershed protection, development, distribution, and improvement;

(f) the general welfare of livestock grazing within a grazing district; and

(g) subject to Subsection (3), costs to monitor rangeland improvement projects.

(3) Annual account distributions or expenditures for the monitoring costs described in Subsection (2)(g) may not exceed 10% of the annual receipts of the fund.

Section 219. Section **4-20-107**, which is renumbered from Section 4-20-8 is renumbered and amended to read:

[~~4-20-8~~]. 4-20-107. Audit of grazing districts -- State auditor to coordinate with Department of Interior in conduct of audit.

The state auditor is authorized to coordinate with the Department of Interior in auditing the books of the several advisory boards.

Section 220. Section **4-20-108**, which is renumbered from Section 4-20-9 is

5770 renumbered and amended to read:

5771 ~~[4-20-9].~~ **4-20-108.** **Commissioner to supervise distribution of undistributed**
5772 **funds if United States alters or discontinues funding leaving funds or resources available.**

5773 If the United States alters or discontinues funding under the Taylor Grazing Act, 43
5774 U.S.C. Sec. 315 et seq., or the operation of advisory boards, leaving funds or other resources
5775 undistributed or otherwise without means for continuation, the commissioner shall supervise
5776 and control the distribution of such undistributed funds or other resources.

5777 Section 221. Section **4-20-109**, which is renumbered from Section 4-20-10 is
5778 renumbered and amended to read:

5779 ~~[4-20-10].~~ **4-20-109.** **Promotion of multiple use of rangeland resources.**

5780 (1) The department shall work cooperatively to promote efficient multiple-use
5781 management of the rangeland resources of the public lands administered by the federal Bureau
5782 of Land Management within the state to benefit the overall public interest.

5783 (2) The department may serve as an independent resource for mediating disputes
5784 concerning permit issues within the scope of Subsection (1).

5785 Section 222. Section **4-22-101** is enacted to read:

5786 **CHAPTER 22. DAIRY PROMOTION**

5787 **4-22-101.** **Title.**

5788 This chapter is known as "Dairy Promotion."

5789 Section 223. Section **4-22-102**, which is renumbered from Section 4-22-1 is
5790 renumbered and amended to read:

5791 ~~[4-22-1].~~ **4-22-102.** **Definitions.**

5792 As used in this chapter:

5793 (1) "Commission" means the Utah Dairy Commission.

5794 (2) "Dealer" means any person who buys and processes raw milk or milk fat, or who
5795 acts as agent in the sale or purchase of raw milk or milk fat, or who acts as a broker or factor
5796 with respect to raw milk or milk fat or any product derived from either.

5797 (3) "Producer" means a person who produces milk or milk fat from cows and who sells

5798 it for human or animal consumption, or for medicinal or industrial uses.

5799 (4) "Producer-handler" means any producer who processes raw milk or milk fat.

5800 Section 224. Section **4-22-103**, which is renumbered from Section 4-22-2 is

5801 renumbered and amended to read:

5802 **~~[4-22-2].~~ 4-22-103. Utah Dairy Commission created -- Composition -- Elected**
5803 **members -- Terms of elected members -- Qualifications for election.**

5804 (1) There is created an independent state agency known as the Utah Dairy Commission.

5805 (2) The Utah Dairy Commission consists of 13 members as follows:

5806 (a) the commissioner of agriculture and food, or the commissioner's representative;

5807 (b) the dean of the College of Agriculture at Utah State University, or the dean's
5808 representative;

5809 (c) the president of the Utah Dairy Women's Association or the president of the Utah
5810 Dairy Women's Association's representative;

5811 (d) a member from District 1, northern Cache County, which member shall have a
5812 Cornish, Lewiston, Richmond/Cove, or Trenton mailing address;

5813 (e) a member from District 2, central Cache County and Rich County, which member
5814 shall have a Newton, Clarkston, Amalga, Smithfield, Benson, Hyde Park, Mendon, or
5815 Petersboro mailing address;

5816 (f) a member from District 3, southern Cache County, which member shall have a
5817 Logan, Providence, Nibley, Hyrum, Paradise, Wellsville, College Ward, Young Ward, or
5818 Millville mailing address;

5819 (g) a member from District 4, Box Elder County;

5820 (h) a member from District 5, Weber and Morgan Counties;

5821 (i) a member from District 6, Salt Lake, Davis, Utah, and Tooele Counties;

5822 (j) a member from District 7, Wasatch, Summit, Duchesne, Uintah, and Daggett
5823 Counties;

5824 (k) a member from District 8, Millard, Beaver, Iron, and Washington Counties;

5825 (l) a member from District 9, Sanpete, Carbon, Emery, Grand, Juab, and San Juan

5826 Counties; and

5827 (m) a member from District 10, Piute, Wayne, Kane, Garfield, and Sevier Counties.

5828 (3) The ex officio members listed in Subsections (2)(a) and (b) shall serve without a

5829 vote.

5830 (4) The members listed in Subsections (2)(d) through (m) shall be elected to four-year

5831 terms of office as provided in Section ~~[4-22-6]~~ 4-22-105.

5832 (5) Members shall enter office on July 1 of the year in which they are elected.

5833 (6) The commission, by two-thirds vote, may alter the boundaries comprising the

5834 districts established in this section to maintain equitable representation of active milk

5835 producers on the commission.

5836 (7) Each member shall be:

5837 (a) a citizen of the United States;

5838 (b) 26 years of age or older;

5839 (c) an active milk producer with five consecutive years experience in milk production

5840 within this state immediately preceding election; and

5841 (d) a resident of Utah and the district represented.

5842 Section 225. Section **4-22-104**, which is renumbered from Section 4-22-3 is

5843 renumbered and amended to read:

5844 **~~[4-22-3].~~ 4-22-104. Commission -- Organization -- Quorum to transact**

5845 **business -- Vacancies -- Ineligibility to serve -- Compensation.**

5846 (1) The members of the commission shall elect a chair, vice chair, and secretary from

5847 ~~[among their number]~~ the commission.

5848 (2) Attendance of a simple majority of the commission members at a called meeting

5849 shall constitute a quorum for the transaction of official business.

5850 (3) The commission shall meet:

5851 (a) at the time and place designated by the chair; and

5852 (b) no less often than once every three months.

5853 (4) Vacancies ~~[which]~~ that occur on the commission for any reason shall be filled for

5854 the unexpired term of the vacated member by appointment of a majority of the remaining
5855 members.

5856 (5) If a member moves from the district that ~~[he]~~ the member represents or ceases to
5857 act as a producer during ~~[his]~~ the member's term of office, ~~[he]~~ the member shall resign from
5858 the commission within 30 days after moving from the district or ceasing production.

5859 (6) A member may not receive compensation or benefits for the member's service, but
5860 may receive per diem and travel expenses in accordance with:

5861 (a) Section 63A-3-106;

5862 (b) Section 63A-3-107; and

5863 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5864 63A-3-107.

5865 Section 226. Section **4-22-105**, which is renumbered from Section 4-22-6 is
5866 renumbered and amended to read:

5867 **~~[4-22-6]~~. 4-22-105. Commission to conduct elections -- Nomination of**
5868 **candidates -- Expenses of election paid by commission.**

5869 (1) (a) The commissioner shall administer all commission elections.

5870 (b) The commissioner shall mail a ballot to each producer within the district in which
5871 an election is to be held by May 15 of each election year.

5872 (c) The candidate who receives the highest number of votes cast in the candidate's
5873 district shall be elected.

5874 (d) The commissioner shall determine all questions of eligibility.

5875 (e) A ballot shall be postmarked by May 31 of an election year.

5876 (f) (i) All ballots received by the commissioner shall be counted and tallied by June 15.

5877 (ii) A member of the commission whose name appears on a ballot may not participate
5878 in counting or tallying the ballots.

5879 (2) Candidates for election to the commission shall be nominated, not later than April
5880 15, by a petition signed by ~~[five]~~ two or more producers who are residents of the district in
5881 which the election is to be held.

5882 (3) The names of all nominees shall be submitted to the commissioner on or before
5883 May 1 of each election year [~~in which an election is held~~].

5884 (4) All election expenses incurred by the commissioner shall be paid by the
5885 commission.

5886 Section 227. Section **4-22-106**, which is renumbered from Section 4-22-4 is
5887 renumbered and amended to read:

5888 ~~[4-22-4]~~. **4-22-106. Commission powers, duties, and functions.**

5889 The commission has and shall exercise the following functions, powers, and duties:

5890 (1) to employ and fix the salary of a full-time administrator, not a member of the
5891 commission, to administer the policies adopted, and perform the duties assigned, by the
5892 commission;

5893 (2) to conduct a campaign of research, nutritional education, and publicity, showing the
5894 value of milk, cream, and dairy products;

5895 (3) to encourage local, national, and international use of Utah dairy products and
5896 by-products, through advertising or otherwise;

5897 (4) to investigate and participate in studies of problems peculiar to producers in Utah
5898 and to take all actions consistent with this chapter to promote, protect, and stabilize the state
5899 dairy industry;

5900 (5) to sue and be sued, prosecute actions in the name of the state for the collection of
5901 the assessment imposed by Section [~~4-22-7~~] 4-22-201, enter into contracts, and incur
5902 indebtedness in furtherance of [~~its~~] the commission's business activities;

5903 (6) to cooperate with any local, state, or national organization engaged in activities
5904 similar to those of the commission;

5905 (7) to accept grants, donations, or gifts for use consistent with this chapter; and

5906 (8) to do all other things necessary for the efficient and effective management and
5907 operation of [~~its~~] the commission's business.

5908 Section 228. Section **4-22-107**, which is renumbered from Section 4-22-4.5 is
5909 renumbered and amended to read:

5910 ~~[4-22-4.5].~~ **4-22-107. Exemption from certain operational requirements.**

5911 The commission is exempt from:

5912 (1) Title 51, Chapter 5, Funds Consolidation Act;

5913 (2) Title 51, Chapter 7, State Money Management Act;

5914 (3) Title 63A, Utah Administrative Services Code;

5915 (4) Title 63J, Chapter 1, Budgetary Procedures Act; and

5916 (5) Title 67, Chapter 19, Utah State Personnel Management Act.

5917 Section 229. Section **4-22-108**, which is renumbered from Section 4-22-5 is

5918 renumbered and amended to read:

5919 ~~[4-22-5].~~ **4-22-108. Commission may require surety bond -- Payment of**
5920 **premium.**

5921 The commission may require the administrator, or any ~~[of its]~~ commission employees,
5922 to post a surety bond conditioned for the faithful performance of ~~[their]~~ the commission's
5923 official duties. The amount, form, and kind of such a bond shall be fixed by the commission
5924 and each bond premium shall be paid by the commission.

5925 Section 230. Section **4-22-201**, which is renumbered from Section 4-22-7 is

5926 renumbered and amended to read:

5927 **Part 2. Assessment**

5928 ~~[4-22-7].~~ **4-22-201. Assessment imposed on sale of milk or cream produced,**
5929 **sold, or contracted for sale in state -- Time of assessment -- Collection by dealer or**
5930 **producer-handler -- Penalty for delinquent payment or collection -- Statement to be given**
5931 **to producer.**

5932 (1) An assessment of 10 cents is imposed upon each 100 pounds of milk or cream
5933 produced and sold, or contracted for sale, through commercial channels in this state.

5934 (2) The assessment shall be:

5935 (a) based upon daily or monthly settlements; and

5936 (b) due at a time set by the commission, which may not be later than the last day of the
5937 month next succeeding the month of sale.

- 5938 (3) (a) The assessment shall be:
- 5939 (i) assessed against the producer at the time the milk or milk fat is delivered for sale;
- 5940 (ii) deducted from the sales price; and
- 5941 (iii) collected by the dealer or producer-handler.
- 5942 (b) The proceeds of the assessment shall be paid directly to the commission who shall
- 5943 issue a receipt to the dealer or producer-handler.
- 5944 (c) If a dealer or producer-handler fails to remit the proceeds of the assessment or
- 5945 deduct the assessment on time, a penalty equal to 10% of the amount due shall be added to the
- 5946 assessment.
- 5947 (4) (a) At the time of payment of the assessment, the dealer or producer-handler shall
- 5948 deliver a statement to the producer calculating the assessment.
- 5949 (b) The commission may require other relevant information to be included in the
- 5950 statement.
- 5951 (5) If the mandatory assessment required by the Dairy and Tobacco Adjustment Act of
- 5952 1983, Pub. L. No. 98-180, 97 Stat. 1128 (1150.152), is abolished, a producer who objects to
- 5953 payment of the assessment imposed under this section[;] may, by January 31, submit a written
- 5954 request to the commission for a refund of the amount of the assessment the producer paid
- 5955 during the previous year.
- 5956 Section 231. Section ~~4-22-202~~, which is renumbered from Section 4-22-8 is
- 5957 renumbered and amended to read:
- 5958 ~~[4-22-8]~~. 4-22-202. Revenue from assessment used to promote dairy industry
- 5959 -- Deposit of funds -- Annual audit of books, records, and accounts -- Annual financial
- 5960 report to producers.
- 5961 (1) The revenue derived from the assessment imposed by Section [~~4-22-7~~] 4-22-201
- 5962 shall be used exclusively for the:
- 5963 (a) administration of this chapter; and
- 5964 (b) promotion of the state's dairy industry.
- 5965 (2) (a) A voucher, receipt, or other written record for each withdrawal from the Utah

5966 Dairy Commission Fund shall be kept by the commission.

5967 (b) No funds shall be withdrawn from the fund except upon order of the commission.

5968 (3) The commission may deposit the proceeds of the assessment in one or more
5969 accounts in one or more banks approved by the state as depositories.

5970 (4) The books, records, and accounts of the commission's activities are public records.

5971 (5) (a) The accounts of the commission shall be audited once annually by a licensed
5972 accountant selected by the commission and approved by the state auditor.

5973 (b) The results of the audit shall be submitted to the:

5974 (i) commissioner;

5975 (ii) commission; and

5976 (iii) Division of Finance.

5977 (c) It is the responsibility of the commission to send annually a financial report to each
5978 producer.

5979 Section 232. Section **4-22-203**, which is renumbered from Section 4-22-8.5 is
5980 renumbered and amended to read:

5981 **[4-22-8.5]. 4-22-203. Additional assessment for government liaison and**
5982 **industry relations programs -- Exemption from the assessment.**

5983 (1) In addition to the assessment provided in Section [~~4-22-7~~] 4-22-201, an assessment
5984 of three-fourths of one cent is imposed upon each 100 pounds of milk or cream produced and
5985 sold, or contracted for sale, through commercial channels in this state for the purposes
5986 specified in Subsection (3).

5987 (2) The three-fourths of one cent assessment shall be paid in the same manner as the
5988 assessment required by Section [~~4-22-7~~] 4-22-201.

5989 (3) The commission shall use the revenue derived from the three-fourths of one cent
5990 assessment imposed by this section to contract out for services and expenses of government
5991 liaison and industry relations programs created to stabilize and protect the state's dairy industry
5992 and the health and welfare of the public.

5993 (4) A producer who objects to payment of the assessment imposed by this section may,

5994 by January 31, submit a written request to the commission to be exempted from payment of the
5995 assessment for that year. By January 1 each year, the commission shall send to each person
5996 subject to the assessment a postage-paid, self-addressed postcard [~~to each person subject to the~~
5997 ~~assessment~~] which may be returned to request an exemption.

5998 Section 233. Section **4-22-301**, which is renumbered from Section 4-22-9 is
5999 renumbered and amended to read:

6000 **Part 3. Liability and Enforcement**

6001 ~~[4-22-9].~~ **4-22-301. State disclaimer of liability.**

6002 The state is not liable for the acts or omissions of the commission, [~~its~~] commission
6003 officers, agents, or employees.

6004 Section 234. Section **4-22-302**, which is renumbered from Section 4-22-9.5 is
6005 renumbered and amended to read:

6006 ~~[4-22-9.5].~~ **4-22-302. Commission not eligible for coverage under Risk**
6007 **Management Fund.**

6008 The commission is not eligible to receive coverage under the Risk Management Fund
6009 created under Section ~~63A-4-201~~.

6010 Section 235. Section **4-22-303**, which is renumbered from Section 4-22-10 is
6011 renumbered and amended to read:

6012 ~~[4-22-10].~~ **4-22-303. Enforcement -- Inspection of books and records of dealer**
6013 **or producer-handler.**

6014 The commission at reasonable times may enter upon the premises and inspect the
6015 records of any dealer or producer-handler for the purpose of enforcing this chapter.

6016 Section 236. Section **4-23-101**, which is renumbered from Section 4-23-1 is
6017 renumbered and amended to read:

6018 **CHAPTER 23. AGRICULTURAL AND WILDLIFE DAMAGE PREVENTION ACT**

6019 ~~[4-23-1].~~ **4-23-101. Title.**

6020 This chapter [~~shall be~~] is known [~~and may be cited~~] as the "Agricultural and Wildlife
6021 Damage Prevention Act."

6022 Section 237. Section **4-23-102**, which is renumbered from Section 4-23-2 is
6023 renumbered and amended to read:

6024 ~~[4-23-2]~~. **4-23-102. Purpose declaration.**

6025 The Legislature finds and declares that it is important to the economy of the state to
6026 maintain agricultural production at [its] the highest possible level and at the same time, to
6027 promote, to protect, and preserve the wildlife resources of the state.

6028 Section 238. Section **4-23-103**, which is renumbered from Section 4-23-3 is
6029 renumbered and amended to read:

6030 ~~[4-23-3]~~. **4-23-103. Definitions.**

6031 As used in this chapter:

6032 (1) "Agricultural crops" means any product of cultivation;

6033 (2) "Board" means the Agricultural and Wildlife Damage Prevention Board;

6034 (3) "Bounty" means the monetary compensation paid to persons for the harvest of
6035 predatory or depredating animals;

6036 (4) "Damage" means any injury or loss to livestock, poultry, agricultural crops, or
6037 wildlife inflicted by predatory or depredating animals or depredating birds;

6038 (5) "Depredating animal" means a field mouse, gopher, ground squirrel, jack rabbit,
6039 raccoon, or prairie dog;

6040 (6) "Depredating bird" means a Brewer's blackbird or starling;

6041 (7) "Livestock" means cattle, horses, mules, sheep, goats, and swine;

6042 (8) "Predatory animal" means any coyote; and

6043 (9) "Wildlife" means any form of animal life generally living in a state of nature,
6044 except a predatory animal or a depredating animal or bird.

6045 Section 239. Section **4-23-104**, which is renumbered from Section 4-23-4 is
6046 renumbered and amended to read:

6047 ~~[4-23-4]~~. **4-23-104. Agricultural and Wildlife Damage Prevention Board**
6048 **created -- Composition -- Appointment -- Terms -- Vacancies -- Compensation.**

6049 (1) There is created an Agricultural and Wildlife Damage Prevention Board composed

of the commissioner and the director of the Division of Wildlife Resources[;] who shall serve, respectively, as the board's chair and vice chair[;] together with seven other members appointed by the governor to four-year terms of office as follows:

- (a) one sheep producer representing wool growers of the state;
- (b) one cattle producer representing range cattle producers of the state;
- (c) one person from the United States Department of Agriculture;
- (d) one agricultural landowner representing agricultural landowners of the state;
- (e) one person representing wildlife interests in the state;
- (f) one person from the United States Forest Service; and
- (g) one person from the United States Bureau of Land Management.

(2) Appointees' term of office shall commence June 1.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) Attendance of five members at a duly called meeting shall constitute a quorum for the transaction of official business.

(b) The board shall convene at the times and places prescribed by the chair or vice chair.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

6078 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
6079 63A-3-107.

6080 Section 240. Section 4-23-105, which is renumbered from Section 4-23-5 is
6081 renumbered and amended to read:

6082 ~~[4-23-5].~~ **4-23-105. Board responsibilities -- Damage prevention policy --**
6083 **Rules -- Methods to control predators and depredating birds and animals.**

6084 (1) The board is responsible for the formulation of the agricultural and wildlife damage
6085 prevention policy of the state and ~~[in conjunction with its responsibility]~~ may, consistent with
6086 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to implement ~~[its]~~ the
6087 agricultural and wildlife damage prevention policy which shall be administered by the
6088 department.

6089 (2) In ~~[its]~~ the board's policy deliberations the board shall:

6090 (a) specify programs designed to prevent damage to livestock, poultry, and agricultural
6091 crops; and

6092 (b) specify methods for the prevention of damage and for the selective control of
6093 predators and depredating birds and animals including hunting, trapping, chemical toxicants,
6094 and the use of aircraft.

6095 (3) The board may also:

6096 (a) specify bounties on designated predatory animals and recommend procedures for
6097 the payment of bounty claims, recommend bounty districts, recommend persons not authorized
6098 to receive bounty, and recommend to the department other actions ~~[it]~~ the board's considers
6099 advisable for the enforcement of ~~[its]~~ the board's policies; and

6100 (b) cooperate with federal, state, and local governments, educational institutions, and
6101 private persons or organizations, through agreement or otherwise, to effectuate ~~[its]~~ the board's
6102 policies.

6103 Section 241. Section 4-23-106, which is renumbered from Section 4-23-6 is
6104 renumbered and amended to read:

6105 ~~[4-23-6].~~ **4-23-106. Department to issue licenses and permits -- Department to**

6106 **issue aircraft use permits -- Reports.**

6107 (1) The department is responsible for the issuance of permits and licenses for the
 6108 purposes of the federal Fish and Wildlife Act of 1956. ~~[No]~~

6109 (2) (a) A state agency or private person ~~[shall]~~ may not use any aircraft for the
 6110 prevention of damage without first obtaining a use permit from the department.

6111 (b) A state agency ~~[which]~~ that contemplates the use of aircraft for the protection of
 6112 agricultural crops, livestock, poultry, or wildlife shall file an application with the department
 6113 for an aircraft use permit to enable the agency to issue licenses to personnel within the agency
 6114 charged with the responsibility to protect such resources. ~~[Persons]~~

6115 (c) A person who ~~[desire]~~ desires to use privately owned aircraft for the protection of
 6116 land, water, crops, wildlife, or livestock may not engage in any such protective activity without
 6117 first obtaining an aircraft permit from the department.

6118 (d) Agencies and private persons ~~[which]~~ that obtain aircraft use permits shall file such
 6119 reports with the department as it deems necessary in the administration of its licensing
 6120 authority.

6121 Section 242. Section **4-23-107**, which is renumbered from Section 4-23-7 is
 6122 renumbered and amended to read:

6123 ~~[4-23-7].~~ **4-23-107. Annual fees on sheep, goats, cattle, and turkeys --**
 6124 **Determination by board -- Collection methods.**

6125 (1) To assist the department in meeting the annual expense of administering this
 6126 chapter, the following annual predator control fees are imposed upon animals owned by
 6127 persons whose interests this chapter is designed to protect:

6128	Sheep and goats (except on farm dairy	
6129	goats or feeder lambs).....	at least \$.70 but not
6130		more than \$1 per head
6131	Cattle (except on farm dairy cattle).....	at least \$.15 but not
6132		more than \$.50 per head
6133	Turkeys (breeding stock only).....	at least \$.05 but not

6134 more than \$.10 per head

6135 (2) The amount of the fees imposed upon each category of animals specified in this
6136 section shall be determined by the board annually on or before January 1 of each year.

6137 (3) (a) Fee brand inspected cattle are subject to a predator control fee upon change of
6138 ownership or slaughter.

6139 (b) The fee shall be collected by the local brand inspector at the time of the inspection
6140 of cattle, or withheld and paid by the market from proceeds derived from the sale of the cattle.

6141 (c) Cattle that are fee brand inspected prior to confinement to a feedlot are not subject
6142 to any subsequent predator control fee.

6143 (4) (a) Fleece of sheared sheep is subject to a predator control fee upon sale of the
6144 fleece.

6145 (b) (i) The fee shall be withheld and paid by the marketing agency or purchaser of wool
6146 from proceeds derived from the sale of the fleece.

6147 (ii) The department shall enter into cooperative agreements with in-state and
6148 out-of-state wool warehouses and wool processing facilities for the collection of predator
6149 control fees on the fleece of sheep that graze on private or public range in the state.

6150 (c) The fee shall be based on the number of pounds of wool divided by 10 pounds for
6151 white face sheep and five pounds for black face sheep.

6152 (5) Predator control fees on turkey breeding stock shall be paid by the turkey
6153 cooperative.

6154 (6) (a) Livestock owners shall pay a predator control fee on any livestock that uses
6155 public or private range in the state which is not otherwise subject to the fee under Subsection
6156 (3) or (4).

6157 (b) By January 1, the commissioner shall mail to each owner of livestock specified in
6158 Subsection (6)(a) a reporting form requiring sufficient information on the type and number of
6159 livestock grazed in the state and indicating the fee imposed for each category of livestock.

6160 (c) Each owner shall file the completed form and the appropriate fee with the
6161 commissioner before April 1.

(d) If any person who receives the reporting form fails to return the completed form and the imposed fee as required, the commissioner is authorized to commence suit through the office of the attorney general, in a court of competent jurisdiction, to collect the imposed fee, the amount of which shall be as determined by the commissioner.

(7) All fees collected under this section shall be remitted to the department and deposited in the Agricultural and Wildlife Damage Prevention Account.

Section 243. Section **4-23-108**, which is renumbered from Section 4-23-7.5 is renumbered and amended to read:

~~[4-23-7.5].~~ 4-23-108. Agricultural and Wildlife Damage Prevention Account.

(1) There is created in the General Fund a restricted account known as the Agricultural and Wildlife Damage Prevention Account.

(2) Money received under Section ~~[4-23-7]~~ 4-23-107 shall be deposited by the commissioner ~~[of agriculture and food in]~~ into the Agricultural and Wildlife Damage Prevention Account to be appropriated for the purposes provided in this chapter.

(3) Any supplemental contributions received by the department from livestock owners for predator control programs shall be deposited into the Agricultural and Wildlife Damage Prevention Account.

Section 244. Section **4-23-109**, which is renumbered from Section 4-23-8 is renumbered and amended to read:

~~[4-23-8].~~ 4-23-109. Proceeds of sheep fee -- Refund of sheep fees -- Annual audit of books, records, and accounts.

(1) (a) Subject to the other provisions of this Subsection (1), the commissioner may spend an amount each year from the proceeds collected from the fee imposed on sheep for the promotion, advancement, and protection of the sheep interests of the state.

(b) The amount described in Subsection (1)(a) shall be the equivalent to an amount that:

(i) equals or exceeds 18 cents per head; and

(ii) equals or is less than 25 cents per head.

6190 (c) The commissioner shall set the amount described in Subsection (1)(a):
6191 (i) on or before January 1 of each year; and
6192 (ii) in consultation with one or more statewide organizations that represent persons
6193 who grow wool.

6194 (d) A sheep fee is refundable in an amount equal to that part of the fee used to promote,
6195 advance, or protect sheep interests.

6196 (e) A refund claim shall be filed with the department on or before January 1 of the year
6197 immediately succeeding the year for which the fee was paid.

6198 (f) A refund claim shall be certified by the department to the state treasurer for
6199 payment from the Agricultural and Wildlife Damage Prevention Account created in Section
6200 ~~[4-23-7.5]~~ 4-23-108.

6201 (2) Any expense incurred by the department in administering refunds shall be paid
6202 from funds allocated for the promotion, advancement, and protection of the sheep interests of
6203 the state.

6204 (3) (a) The books, records, and accounts of the Utah Woolgrowers Association, or any
6205 other organization which receives funds from the agricultural and wildlife damage prevention
6206 account, for the purpose of promoting, advancing, or protecting the sheep interests of the state,
6207 shall be audited at least once annually by a licensed accountant.

6208 (b) The results of this audit shall be submitted to the commissioner.

6209 Section 245. Section **4-23-110**, which is renumbered from Section 4-23-10 is
6210 renumbered and amended to read:

6211 ~~[4-23-10]~~. **4-23-110. Applicability of chapter.**

6212 This chapter, unless contrary to a federal statute, shall apply to all federal, state, and
6213 private lands.

6214 Section 246. Section **4-23-111**, which is renumbered from Section 4-23-11 is
6215 renumbered and amended to read:

6216 ~~[4-23-11]~~. **4-23-111. Holding a raccoon or coyote in captivity prohibited --**
6217 **Penalty.**

(1) No person may hold in captivity a raccoon or coyote, except as provided by rules of the Agricultural and Wildlife Damage Prevention Board.

(2) The Division of Wildlife Resources, with the cooperation of the ~~[Department of Agriculture and Food]~~ department and the Department of Health, shall enforce this section.

(3) Any violation of this section is a class B misdemeanor.

~~[(4) This section does not prohibit a person from continuing to keep a raccoon or coyote that he owns as of the effective date of this act.]~~

Section 247. Section **4-24-101**, which is renumbered from Section 4-24-1 is renumbered and amended to read:

CHAPTER 24. UTAH LIVESTOCK BRAND AND ANTI-THEFT ACT

Part 1. Administration and Board

~~4-24-1~~. 4-24-101. Title.

This chapter ~~[shall be known and may be cited]~~ is known as the "Utah Livestock Brand and Anti-Theft Act."

Section 248. Section **4-24-102**, which is renumbered from Section 4-24-2 is renumbered and amended to read:

~~4-24-2~~. 4-24-102. Definitions.

As used in this chapter:

(1) "Brand" means any identifiable mark applied to livestock which is intended to show ownership.

(2) "Carcass" means any part of the body of an animal, including ~~[hides,]~~ entrails~~;~~ and edible meats.

(3) "Domesticated elk" ~~[shall have the meaning as]~~ means the same as that term is defined in Section **4-39-102**.

(4) "Hide" means any skins or wool removed from livestock.

(5) "Livestock" means cattle, calves, horses, mules, sheep, goats, hogs, or domesticated elk.

(6) (a) "Livestock market" means a public market place consisting of pens or other

6246 enclosures where cattle, calves, horses, or mules are received on consignment and kept for
6247 subsequent sale, either through public auction or private sale.

6248 (b) "Livestock market" does not mean:

6249 (i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock
6250 breeder, or feeder who is going out of business; or

6251 (ii) a place where an association of livestock breeders under ~~[its]~~ the association's own
6252 management, offers registered livestock or breeding sires for sale and assumes all
6253 responsibility for the sale, guarantees title to the livestock or sires sold, and arranges with the
6254 department for brand inspection of all animals sold.

6255 (7) "Mark" means any ~~[dub, waddle, or]~~ cutting and shaping of the ears or brisket
6256 area of livestock which is intended to show ownership.

6257 (8) "Open range" means land upon which cattle, sheep, or other domestic animals are
6258 grazed or permitted to roam by custom, license, lease, or permit.

6259 ~~[(8)]~~ (9) "Slaughterhouse" means any building, plant, or establishment where animals
6260 are [killed] harvested, dressed, or processed and their meat or meat products [offered for sale]
6261 produced for human consumption.

6262 Section 249. Section ~~4-24-103~~, which is renumbered from Section 4-24-3 is
6263 renumbered and amended to read:

6264 ~~[4-24-3].~~ **4-24-103. Department authorized to make and enforce rules.**

6265 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
6266 Rulemaking Act, to make and enforce ~~[such]~~ rules as ~~[in its judgment are]~~ necessary to
6267 administer and enforce this chapter.

6268 Section 250. Section ~~4-24-104~~, which is renumbered from Section 4-24-4 is
6269 renumbered and amended to read:

6270 ~~[4-24-4].~~ **4-24-104. Livestock Brand Board created -- Composition -- Terms**
6271 **-- Removal -- Quorum for transaction of business -- Compensation -- Duties.**

6272 (1) There is created the Livestock Brand Board consisting of seven members appointed
6273 by the governor as follows:

6274 (a) four cattle ranchers recommended by the Utah Cattlemen's Association, one of
6275 whom shall be a feeder operator;

6276 (b) one dairyman recommended by the Utah Dairymen's Association;

6277 (c) one livestock market operator recommended jointly by the Utah Cattlemen's
6278 Association and the Utah Dairymen's Association and the Livestock Market Association; and

6279 (d) one horse breeder recommended by the Utah Horse Council.

6280 (2) If a nominee is rejected by the governor, the recommending association shall
6281 submit another nominee.

6282 (3) (a) Except as required by Subsection (3)(b), as terms of current board members
6283 expire, the governor shall appoint each new member or reappointed member to a four-year
6284 term.

6285 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
6286 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
6287 board members are staggered so that approximately half of the board is appointed every two
6288 years.

6289 (4) (a) A member may, at the discretion of the governor, be removed at the request of
6290 the association that recommended the appointment.

6291 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
6292 appointed for the unexpired term.

6293 (5) One member elected by the board shall serve as chair for a term of one year and be
6294 responsible for the call and conduct of meetings of the Livestock Brand Board. Attendance of
6295 a simple majority of the members at a duly called meeting shall constitute a quorum for the
6296 transaction of official business.

6297 (6) A member may not receive compensation or benefits for the member's service, but
6298 may receive per diem and travel expenses in accordance with:

6299 (a) Section 63A-3-106;

6300 (b) Section 63A-3-107; and

6301 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

6302 63A-3-107.

6303 (7) The Livestock Brand Board with the cooperation of the department shall direct the
6304 procedures and policies to be followed in administering and enforcing this chapter.

6305 Section 251. Section ~~4-24-105~~, which is renumbered from Section 4-24-30 is
6306 renumbered and amended to read:

6307 ~~[4-24-30].~~ **4-24-105. Commission to appoint supervisor for brand inspection --**
6308 **Appointment subject to approval -- Salary.**

6309 (1) The commissioner shall appoint a state supervisor for livestock brand inspection,
6310 ~~[but such appointment is]~~ subject to the approval of the Livestock Brand Board.

6311 (2) The salary or compensation of the supervisor shall be fixed in accordance with
6312 standards adopted by the Division of Finance.

6313 Section 252. Section ~~4-24-201~~, which is renumbered from Section 4-24-5 is
6314 renumbered and amended to read:

6315 **Part 2. Brand and Marks**

6316 ~~[4-24-5].~~ **4-24-201. Central Brand and Mark Registry -- Division of state into**
6317 **mark districts -- Identical or confusingly similar brands -- Publication of registered**
6318 **brands and marks.**

6319 (1) The department shall maintain a central Brand and Mark Registry which shall list
6320 each brand or mark recorded in this state. For each brand or mark registered the list shall
6321 specify:

- 6322 (a) the name and address of the registrant;
6323 (b) a facsimile of the brand recorded or a diagram showing the kind of mark recorded;
6324 (c) the location of the brand or mark upon the animal; and
6325 (d) the date the brand or mark is filed in the registry.

6326 (2) The commissioner may divide the state into districts for the purpose of recording
6327 marks but no mark ~~[which in the opinion of the commissioner]~~ that is identical or confusingly
6328 similar to a mark previously recorded in a district shall be recorded.

6329 (3) (a) No brand ~~[which in the opinion of the commissioner]~~ that is identical or

6330 confusingly similar to a brand previously filed in the central brand and mark registry shall be
6331 recorded.

6332 (b) If [it appears that two or more] two or more brands or marks appear identical or
6333 confusingly similar [brands or marks have been recorded,];

6334 (i) the brand or mark first recorded shall prevail over a later conflicting brand or mark;
6335 [in which event,] and

6336 (ii) the later brand or mark shall be cancelled and all recording fees refunded to the
6337 owner.

6338 (4) (a) The commissioner shall publish from time to time a list of all brands and marks
6339 recorded in the central Brand and Mark Registry and may issue supplements to such
6340 publication containing additional brands and marks or changes in ownership of brands and
6341 marks recorded after the last publication.

6342 (b) The brand book shall contain a facsimile of all brands and marks recorded together
6343 with the owner's name and address.

6344 (c) The commissioner shall send one copy of the brand book and each supplement to
6345 each brand inspector, county clerk, county sheriff, livestock organization, and any other person
6346 deemed appropriate.

6347 (d) Brand books and supplements shall be available to the public at the cost of printing
6348 and distribution per book or supplement.

6349 Section 253. Section **4-24-202**, which is renumbered from Section 4-24-7 is
6350 renumbered and amended to read:

6351 **[4-24-7]. 4-24-202. Recordation of brand or mark.**

6352 (1) (a) Application for a recorded brand or mark shall be made to the department upon
6353 forms prescribed and furnished by [it] the department.

6354 (b) The application shall contain such information as the commissioner prescribes.

6355 (c) No application shall be approved without payment of the appropriate recording fee.

6356 (d) Upon receipt of a proper application, payment of the recording fee, and recordation
6357 of the brand or mark in the central Brand or Mark Registry of the department, the

6358 commissioner shall issue the applicant a certified copy of recording [~~which~~] that entitles the
6359 applicant to the exclusive use of the brand or mark recorded.

6360 (2) (a) Each recorded brand or mark filed with the central Brand and Mark Registry
6361 shall expire during the calendar year 1980, and during each fifth year thereafter.

6362 (b) The department shall give notice in writing to all persons who are owners of
6363 recorded brands and marks within a reasonable time prior to the date of expiration of
6364 recordation.

6365 (c) Brand or mark renewal is effected by filing an appropriate application with the
6366 department together with payment of the renewal fee.

6367 (d) A recorded brand or mark, not timely renewed, shall lapse and be removed from the
6368 central Brand and Mark Registry.

6369 Section 254. Section **4-24-203**, which is renumbered from Section 4-24-8 is
6370 renumbered and amended to read:

6371 ~~[4-24-8]~~. **4-24-203. Fees for recordation, transfer, renewal, and certified**
6372 **copies of brands and marks.**

6373 (1) The department, with the approval of the Livestock Brand Board, shall charge and
6374 collect fees for the recordation, transfer, and renewal of any brand or mark in each position, and
6375 may charge a fee for a certified copy of the recordation.

6376 (2) The fees shall be determined by the department pursuant to Subsection [~~4-2-2~~]
6377 4-2-103(2).

6378 Section 255. Section **4-24-204**, which is renumbered from Section 4-24-9 is
6379 renumbered and amended to read:

6380 ~~[4-24-9]~~. **4-24-204. Effect of recorded brand or mark -- Transfer --**
6381 **Reservation of certain brands.**

6382 ~~[The]~~ (1) Except as provided in Subsection (2), the owner of a recorded brand or mark
6383 has a vested property right in [~~it which~~] the brand or mark that is transferable by a duly
6384 acknowledged instrument[;], provided[;] that a transferee has no rights in the brand or mark
6385 until the instrument of transfer is recorded with the department. [~~No~~]

6386 (2) Notwithstanding any other provision of this chapter:

6387 (a) no person ~~[however,]~~ other than a member of the Ute Indian Tribe has any vested
6388 property right in the brand "ID" which is reserved exclusively for use by members of the Ute
6389 Indian Tribe on the Uintah and Ouray Reservation; and

6390 (b) no person other than a member of the Navajo Indian Tribe has any vested right in
6391 the brand "- N" (Bar N) which is reserved exclusively for use by members of the Navajo Indian
6392 Tribe on the Navajo Indian Reservation ~~[so]~~ as long as it appears on the left shoulder of the
6393 animal branded.

6394 (3) The left jaw of cattle is reserved exclusively for use by the department to identify
6395 diseased cattle.

6396 Section 256. Section **4-24-205**, which is renumbered from Section 4-24-10 is
6397 renumbered and amended to read:

6398 ~~[4-24-10].~~ **4-24-205. Livestock on open range or outside enclosure to be**
6399 **marked or branded -- Cattle upon transfer of ownership to be marked or branded --**
6400 **Exceptions.**

6401 (1) (a) Except as provided in Subsections (1)(b) and (c), no livestock shall forage upon
6402 an open range in this state or outside an enclosure unless they bear a brand or mark recorded in
6403 accordance with this chapter.

6404 (b) Swine, goats, and unweaned calves or colts are not required to bear a brand or mark
6405 to forage upon open range or outside an enclosure.

6406 (c) Domesticated elk may not forage upon open range or outside an enclosure under
6407 any circumstances as provided in Chapter 39, Domesticated Elk Act.

6408 (2) (a) Except as provided in Subsection (2)(b), all cattle, upon sale or other transfer of
6409 ownership, shall be branded or marked with the recorded brand or mark of the new owner
6410 within 30 days after transfer of ownership.

6411 (b) No branding or marking, upon change of ownership, is required within the 30-day
6412 period for:

6413 (i) unweaned calves;

6414 (ii) registered or certified cattle;
6415 (iii) youth project calves, if the number transferred is less than five; or
6416 (iv) dairy cattle held on farms.
6417 Section 257. Section **4-24-301**, which is renumbered from Section 4-24-6 is
6418 renumbered and amended to read:

6419 **Part 3. Inspections**

6420 ~~[4-24-6].~~ **4-24-301. State may be divided into brand inspection districts --**
6421 **Description filed with county clerk and sheriff.**

6422 (1) The commissioner, to facilitate and improve brand inspection, may divide the state
6423 into brand inspection districts.

6424 (2) A description covering each district shall be filed by the department with each
6425 county clerk and county sheriff in the state.

6426 (3) District boundaries may be changed as considered necessary by the commissioner,
6427 with the approval of the Livestock Brand Board.

6428 (4) Brand inspection stations within brand inspection districts may be located and
6429 established by the commissioner to assist in the enforcement of this chapter.

6430 Section 258. Section **4-24-302**, which is renumbered from Section 4-24-11 is
6431 renumbered and amended to read:

6432 ~~[4-24-11].~~ **4-24-302. Certificate of brand inspection necessary to carry out**
6433 **change of ownership -- Exception.**

6434 (1) Except as provided in Subsection (2), the ownership of cattle, horses, domesticated
6435 elk, or mules may not be transferred to any other person, through sale or otherwise, without a
6436 certificate of brand inspection issued by a department brand inspector.

6437 (2) (a) A brand inspection is not required to transfer ownership of dairy calves from the
6438 farm of origin under 60 days of age.

6439 (b) Any person who transports dairy calves that have not been brand inspected pursuant
6440 to Subsection (2)(a) shall be required to show a sales invoice upon request.

6441 Section 259. Section **4-24-303**, which is renumbered from Section 4-24-12 is

6442 renumbered and amended to read:

6443 ~~[4-24-12]~~. 4-24-303. **Livestock -- Verification of ownership through brand**
6444 **inspection -- Issuance of certificate of brand inspection -- Brand inspector may demand**
6445 **evidence of ownership -- Brand inspection of livestock seized by the federal government**
6446 **prohibited -- Exception.**

6447 (1) A brand inspector, as an agent of the department, shall verify livestock ownership
6448 by conducting a brand inspection during daylight hours.

6449 (2) After conducting the brand inspection, the brand inspector, if satisfied that the
6450 livestock subject to inspection bears registered brands or marks owned by the owner of the
6451 livestock, shall issue a brand inspection certificate to the owner or owner's agent.

6452 (3) The brand inspector shall record the number, sex, breed, and brand or mark on each
6453 animal inspected together with the owner's name.

6454 (4) If any livestock subject to inspection bears a brand or mark other than that of the
6455 owner, or² or³ if no brand or mark appears on such livestock, the brand inspector may demand
6456 evidence of ownership ~~[such as a bill of sale or other evidence of ownership]~~ before issuing a
6457 brand inspection certificate.

6458 (5) A brand inspector may not issue a brand inspection certificate for any privately
6459 owned livestock seized by the federal government unless:

6460 (a) the brand inspector receives consent from the livestock's owner;

6461 (b) the owner is unknown; or

6462 (c) the brand inspector receives a copy of a court order authorizing the seizure.

6463 Section 260. Section ~~4-24-304~~, which is renumbered from Section 4-24-13 is

6464 renumbered and amended to read:

6465 ~~[4-24-13]~~. 4-24-304. **Brand inspection required before slaughter -- Exceptions.**

6466 (1) Except as provided in Subsection (2), a brand inspection is required before any
6467 cattle, calves, horses, domesticated elk, or mules are slaughtered.

6468 (2) A person may slaughter cattle, calves, horses, or mules for that person's own use
6469 without a brand inspection if the requirements of ~~[Subsection 4-32-4(2)]~~ Section 4-32-106 are

6470 met.

6471 Section 261. Section **4-24-305**, which is renumbered from Section 4-24-14 is
6472 renumbered and amended to read:

6473 **~~[4-24-14].~~ 4-24-305. Transportation by air or rail -- Brand inspection required**
6474 **-- Application for brand inspection -- Time and place of inspection.**

6475 (1) Except as provided in Subsection (2), no person may offer, or railroad or airline
6476 company accept, any cattle, calves, horses, domesticated elk, or mules for transport until they
6477 have been brand inspected.

6478 (2) Before cattle, calves, horses, domesticated elk, or mules are transported by rail or
6479 air, the shipper shall:

6480 (a) request the department to inspect the brands and marks of the animals being
6481 transported; and

6482 (b) specify the time and place where the animals may be inspected.

6483 ~~[(3) Cattle, calves, horses, domesticated elk, or mules transported by rail or air shall be~~
6484 ~~brand inspected.]~~

6485 ~~[(a) at a stockyard or at the initial point of shipment; or]~~

6486 ~~[(b) if approved by the department, at a point or station along the transportation route.]~~

6487 ~~[(4) The department shall conduct the inspection at the time and place specified by the~~
6488 ~~shipper or at any other time and place as determined by the department.]~~

6489 Section 262. Section **4-24-306**, which is renumbered from Section 4-24-15 is
6490 renumbered and amended to read:

6491 **~~[4-24-15].~~ 4-24-306. Movement across state line -- Brand inspection required**
6492 **-- Exception -- Request for brand inspection -- Time and place of inspection.**

6493 (1) Except as provided in Subsection (2), a person may not drive or transport any cattle,
6494 calves, horses, domesticated elk, or mules from any place within this state to a place outside
6495 this state until they have been brand inspected.

6496 (2) Subsection (1) does not apply if the animals specified in Subsection (1) customarily
6497 forage on an open range which transgresses the Utah state line and that of an adjoining state.

(3) The owner or person responsible for driving or transporting the animals shall ~~[(a)]~~ request the department to inspect the brands and marks of the animals to be moved ~~[-; and]~~. ~~[(b) specify the time and place where the animals may be inspected.]~~

(4) The department shall conduct the inspection at the time and place ~~[specified by the owner or responsible person or at any other time and place as]~~ determined by the department.

Section 263. Section ~~4-24-307~~, which is renumbered from Section 4-24-17 is renumbered and amended to read:

~~[4-24-17].~~ **4-24-307. Transportation of sheep, cattle, domesticated elk, horses, or mules -- Brand certificate or other evidence of ownership required -- Transit permit -- Contents.**

(1) No person may transport any sheep, cattle, horses, domesticated elk, or mules without having an official state brand certificate or other proof of ownership in his possession.

(2) Each person transporting livestock for another person shall have a transit permit signed by the owner or the owner's authorized agent specifying the:

(a) name of the person driving the vehicle;

(b) date of transportation;

(c) place of origin or loading;

(d) destination;

(e) date of issuance; ~~[and]~~

(f) number of animals being transported~~[-]; and~~

(g) full description of an animal being transported.

Section 264. Section ~~4-24-308~~, which is renumbered from Section 4-24-21 is renumbered and amended to read:

~~[4-24-21].~~ **4-24-308. Brand inspection fees.**

(1) The department with the approval of the Livestock Brand Board may set and collect a fee for the issuance of any certificate of brand inspection.

(2) Brand inspection fees incurred for the inspection of such animals at a livestock market may be withheld by the market and paid from the proceeds derived from their sale.

6526 (3) The fee shall be determined by the department pursuant to Subsection [~~4-2-2~~]
6527 ~~4-2-103~~(2).

6528 Section 265. Section **4-24-309**, which is renumbered from Section 4-24-16.3 is
6529 renumbered and amended to read:

6530 [4-24-16.3]. 4-24-309. Livestock emergency.

6531 (1) As used in this section, "livestock emergency" means:

6532 (a) the presence of a contagious, infectious, or transmissible disease risk to livestock;

6533 or

6534 (b) a natural disaster which may affect livestock.

6535 (2) During a livestock emergency, the department may require a person transporting
6536 livestock to present the livestock for brand inspection.

6537 Section 266. Section **4-24-401**, which is renumbered from Section 4-24-18 is
6538 renumbered and amended to read:

6539 **Part 4. Sale, Transfer, and Travel**

6540 ~~[4-24-18]~~. 4-24-401. Hides and pelts -- Bill of sale to accompany purchase --
6541 Purchaser to maintain records -- Hides and records examination and inspection.

6542 (1) (a) Any person who buys a hide or pelt shall secure a bill of sale from the seller.

6543 (b) The bill of sale shall be executed in duplicate[;] with one copy being retained by the
6544 seller and the other by the buyer.

6545 (c) The bill of sale shall specify the number of hides or pelts sold and the brand or
6546 mark borne by each hide ~~and~~ or pelt.

6547 (2) (a) Each hide buyer within this state shall maintain a record specifying the name
6548 and address of the seller, date of purchase, and the brands or other identification found on the
6549 hides and pelts purchased.

6550 **(b)** The hides and records of any hide buyer are subject to examination and inspection
6551 by the department at reasonable times and places.

6552 Section 267. Section **4-24-402**, which is renumbered from Section 4-24-19 is
6553 renumbered and amended to read:

6554 ~~[4-24-19]~~. **4-24-402. Livestock markets -- Records to be maintained --**

6555 **Retention of records -- Schedule of fees and charges to be posted.**

6556 (1) Each owner or operator of a livestock market shall keep a record of:

6557 (a) the date each consignment of livestock is received for sale together with the number
6558 of each type of livestock within such consignment;

6559 (b) the name and address of each buyer;

6560 (c) the date of sale and the number and species of livestock purchased by each buyer;

6561 and

6562 (d) the description and brand or mark appearing on each animal at the time of sale to
6563 the buyer.

6564 (2) The records mandated by this section shall be retained for a period of two years
6565 from the date on which the livestock market sold the livestock.

6566 (3) A schedule of all fees and commission rates charged by the livestock market shall
6567 be posted in a conspicuous place on the premises of each market.

6568 (4) A statement of the gross sales price, commission, and other fees charged for the
6569 sale of each consignment shall be available for inspection by the department, and a copy
6570 furnished the owner or consignor of the livestock.

6571 Section 268. Section **4-24-403**, which is renumbered from Section 4-24-31 is
6572 renumbered and amended to read:

6573 ~~[4-24-31]~~. **4-24-403. Websites promoting the sale of livestock.**

6574 (1) A website, created and maintained within the state, that markets the sale of
6575 livestock shall have the following statement clearly visible on each web page that displays
6576 advertised livestock: "Legality of Sales and Purchase, Health Laws. If you sell or purchase
6577 livestock on this site, you shall comply with all applicable legal requirements governing the
6578 transfer and shipment of livestock, including [~~Utah Code~~] Title 4, Chapter 24, Utah Livestock
6579 Brand and Anti-Theft Act, and Title 4, Chapter 31, Control of Animal Disease. Please contact
6580 the Utah Department of Agriculture and Food at 801-538-7137 with any questions."

6581 (2) A person who violates this section shall be subject to the penalties described in

6582 Section ~~[4-24-32]~~ [4-24-506](#).

6583 Section 269. Section **4-24-404**, which is renumbered from Section 4-24-20 is
6584 renumbered and amended to read:

6585 ~~[4-24-20]~~. **4-24-404. Livestock sold at market to be brand inspected --**
6586 **Proceeds of sale may be withheld -- Distribution of withheld proceeds -- Effect of receipt**
6587 **of proceeds by department -- Deposit of proceeds -- Use of proceeds if ownership not**
6588 **established.**

6589 (1) (a) Livestock may not be sold at any livestock market until after they have been
6590 brand inspected by the department. ~~[Title]~~

6591 (b) The livestock market shall furnish to the buyer title to purchased livestock ~~[shall be~~
6592 ~~furnished to the buyer by the livestock market]~~.

6593 (2) (a) Upon notice from the department that a question exists concerning the
6594 ownership of consigned livestock, the operator of the livestock market or meat packing plant
6595 shall withhold the proceeds from the sale of the livestock for 60 days to allow the consignor of
6596 the questioned livestock to establish ownership.

6597 (b) If the owner or consignor fails within 60 days to establish ownership to the
6598 satisfaction of the department, the proceeds of the sale shall be transmitted to the department.

6599 (c) Receipt of the proceeds by the department shall relieve the livestock market or meat
6600 packing plant from further responsibility for the proceeds.

6601 (3) (a) Proceeds withheld under Subsection (2) shall be deposited ~~[in]~~ into the Utah
6602 Livestock Brand and Anti-Theft Account created in Section ~~[4-24-24]~~ [4-24-501](#).

6603 (b) If ownership is not satisfactorily established within one year, the department shall
6604 use the proceeds for animal identification.

6605 Section 270. Section **4-24-405**, which is renumbered from Section 4-24-22 is
6606 renumbered and amended to read:

6607 ~~[4-24-22]~~. **4-24-405. Travel permit in lieu of brand inspection certificate --**
6608 **Fees -- Permit to accompany animal.**

6609 (1) The department may issue a permit upon the payment of a fee determined by the

6610 department pursuant to Subsection [~~4-2-2~~] 4-2-103(2), in lieu of a certificate of brand
6611 inspection, for the transport of any show horse, show mule, or show cattle [~~within or~~]
6612 transported from any place within this state to a place outside the state.

6613 (2) The words "travel permit" shall be stamped or printed on the permit.

6614 (3) A permit:

6615 (a) shall accompany each show animal while [~~it~~] the show animal is in transit and shall
6616 identify the animal to which [~~it~~] the permit applies by age, sex, color, brand, mark, and scars[-
6617 ~~A travel permit~~]; and

6618 (b) is valid for the calendar year of the date of issuance, which date shall appear on the
6619 permit.

6620 Section 271. Section ~~4-24-406~~, which is renumbered from Section 4-24-23 is
6621 renumbered and amended to read:

6622 [~~4-24-23~~]. **4-24-406. Lifetime permit in lieu of brand inspection certificate --**
6623 **Fees -- Permit to accompany animal -- Transfer.**

6624 (1) The department may issue a "lifetime" permit upon the payment of a fee determined
6625 by the department pursuant to Subsection [~~4-2-2~~] 4-2-103(2), in lieu of a certificate of brand
6626 inspection, for the transport of any horse or mule within or outside the state.

6627 (2) The words "lifetime travel permit" shall be stamped or printed on the permit. The
6628 permit shall accompany each horse or mule while it is in transit and shall identify the animal to
6629 which it applies by age, sex, color, brand, and scars.

6630 (3) A lifetime transportation permit is valid for as long as the horse or mule to which it
6631 applies continues to be owned by the person to whom the permit is issued.

6632 (4) A lifetime permit is transferable to a person within this state upon the transfer of
6633 ownership of such an animal, upon application for transfer and the payment of a permit transfer
6634 fee to the department in an amount determined by the department pursuant to Subsection
6635 [~~4-2-2~~] 4-2-103(2).

6636 Section 272. Section ~~4-24-501~~, which is renumbered from Section 4-24-24 is
6637 renumbered and amended to read:

Part 5. Unlawful Acts and Penalties

**[~~4-24-24~~]. 4-24-501. Utah Livestock Brand and Anti-Theft Account created --
Deposit of fees -- Purpose of expenditures.**

(1) There is created within the General Fund a restricted account known as the Utah Livestock Brand and Anti-Theft Account.

(2) The following money shall be deposited into the Utah Livestock Brand and Anti-Theft Account:

- (a) money received by the department under any provision of this chapter; and
- (b) money received by the department under any provision of Title 4, Chapter 39, Domesticated Elk Act.

(3) Money in the Utah Livestock Brand and Anti-Theft Account shall be used for the administration of this chapter and of Title 4, Chapter 39, Domesticated Elk Act.

Section 273. Section **~~4-24-502~~**, which is renumbered from Section 4-24-25 is renumbered and amended to read:

[~~4-24-25~~]. 4-24-502. Unlawful acts specified -- Allegation concerning evidence of ownership relative to hides.

(1) It is unlawful for any person to:

(a) permit any cattle, calves, horses, mules, or sheep, except unweaned calves or colts, that are not branded or marked in accordance with this chapter, to forage upon an open range in this state or outside an enclosure;

(b) brand or mark any livestock with a brand or mark which is not a matter of record on the central brand and mark registry;

(c) obliterate, change, or remove a recorded brand or mark; or

(d) destroy, mutilate, or conceal any hide with intent to, or for the purpose of, removing evidence of ownership of the hide, or ownership of the animal from which the hide was removed.

(2) In any prosecution for violation of this section, the state need not allege the ownership of the hide, or the animal or carcass from which the hide was removed; the

complaint or information being sufficient if it alleges that ownership is unknown and that the hide is not the property of the defendant.

Section 274. Section **4-24-503**, which is renumbered from Section 4-24-26 is renumbered and amended to read:

[4-24-26]. 4-24-503. Use of vehicle to transport stolen livestock prohibited -- Vehicle subject to seizure and sale -- Procedure for sale -- Defense.

(1) (a) No person shall use any vehicle for the transportation of stolen livestock or carcasses. ~~[Any]~~

(b) A vehicle used in transporting stolen livestock or carcasses is subject to seizure and public sale by the sheriff of the county where ~~[it]~~ the vehicle is found~~[. No sale shall be made, however, until]~~, after written notice of the proposed sale is served upon the person in whose custody the vehicle is found. ~~[Such]~~

(2) A person who receives the notice described in Subsection (1)(b) has 10 days after service of the notice of proposed sale to respond to the notice, in which event~~;~~ no sale shall be conducted until after the issue of ownership or any other issues are litigated in a court of competent jurisdiction.

(3) A stolen vehicle used for unlawful transportation is not subject to seizure and sale if the owner of the vehicle is not acting in concert with the thief.

Section 275. Section **4-24-504**, which is renumbered from Section 4-24-28 is renumbered and amended to read:

[4-24-28]. 4-24-504. Enforcement -- Brand inspector's powers delineated.

(1) A brand inspector is empowered with the authority of a special function officer for the purpose of enforcing this chapter and such an inspector may, if ~~[deemed]~~ proper, stop any vehicle carrying livestock or livestock carcasses for the purpose of examining brands, marks, certificates of brand inspection, and bills of lading or bills of sale relating to the livestock in transit.

(2) (a) Brand inspectors may enter any premises where livestock are kept or maintained for the purpose of examining brands or marks.

(b) If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of examining brands or marks or other evidence of ownership.

Section 276. Section **4-24-505**, which is renumbered from Section 4-24-29 is renumbered and amended to read:

[4-24-29]. 4-24-505. Commissioner authorized to cooperate with local governments, other states, or federal government in enforcement.

The commissioner is empowered with authority, if ~~deemed~~ necessary, to cooperate or enter into cooperative agreements with authorities in any city, town, or county within the state, or with federal authorities, or with authorities in another state for the purpose of securing assistance in the administration and enforcement of this chapter.

Section 277. Section **4-24-506**, which is renumbered from Section 4-24-32 is renumbered and amended to read:

[4-24-32]. 4-24-506. Penalties.

A person who violates a provision of this chapter:

(1) is guilty of a class B misdemeanor; and

(2) may be subject to administrative fines, payable to the department, of up to \$1,000 per violation.

Section 278. Section **4-25-101** is enacted to read:

CHAPTER 25. ESTRAYS

Part 1. Organization

4-25-101. Title.

This chapter is known as "Estrays."

Section 279. Section **4-25-102**, which is renumbered from Section 4-25-1 is renumbered and amended to read:

[4-25-1]. 4-25-102. Definitions.

For the purpose of this chapter:

(1) (a) "Estray" means:

6722 (i) an unbranded sheep, cow, horse, mule, or ass~~[, or domestic mink]~~ found running at
6723 large;

6724 (ii) a branded sheep, cow, horse, mule, or ass~~[, or domestic mink]~~ found running at
6725 large whose owner cannot be found after reasonable search; or

6726 (iii) a swine found running at large whose owner cannot be found after reasonable
6727 search.

6728 (b) "Estray" does not mean any unweaned animal specified in this section that is
6729 running with its mother.

6730 (2) "Feral swine" means any species, or hybrid species:

6731 (a) of the family Suidae, including the European boar, the Eurasian boar, the Russian
6732 boar, a feral hog, or a domestic pig;

6733 (b) that is not conspicuously identified by an ear tag or other form of visual
6734 identification; and

6735 (c) that is roaming freely upon public land or private land ~~[without the permission of~~
6736 ~~the landowner]~~.

6737 (3) "Swine" means any domesticated species of the family Suidae that is conspicuously
6738 identified by an ear tag or other form of visible identification.

6739 Section 280. Section **4-25-103**, which is renumbered from Section 4-25-2 is
6740 renumbered and amended to read:

6741 **~~[4-25-2]. 4-25-103. County responsibility for estrays -- Contracts with other~~**
6742 **local governments authorized.**

6743 (1) Each county is responsible for the disposition of all estrays found within ~~[its]~~ the
6744 county's boundaries.

6745 (2) Each county in the discharge of ~~[its]~~ the county's responsibility, however, may
6746 contract upon mutually agreeable terms with any city, town, or other county with an animal
6747 control office to perform any or all of the functions imposed by this chapter.

6748 Section 281. Section **4-25-104**, which is renumbered from Section 4-25-3 is
6749 renumbered and amended to read:

6750 ~~[4-25-3]~~. 4-25-104. Department authorized to make and enforce rules.

6751 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
6752 Rulemaking Act, to make and enforce such rules as in [its] the department's judgment are
6753 necessary to administer and enforce this chapter.

6754 Section 282. Section **4-25-201**, which is renumbered from Section 4-25-4 is
6755 renumbered and amended to read:

6756 **Part 2. Management of Estrays**

6757 ~~[4-25-4]~~. 4-25-201. Possession of estrays -- Determination and location of
6758 owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from
6759 liability.

6760 (1) (a) Except as provided in Section ~~[4-25-5]~~ 4-25-202, a county shall:

6761 (i) take physical possession of an estray [it] the county finds within [its] county
6762 boundaries; [and]

6763 (ii) attempt to determine the name and location of the estray's owner[-]; and

6764 (iii) contact the local brand inspector.

6765 (b) The department shall assist a county that requests its help in determining the name
6766 and location of the owner or other person responsible for the estray.

6767 (c) (i) Notwithstanding the requirements of Title 67, Chapter 4a, Unclaimed Property
6768 Act, if the county cannot determine the estray's owner, or, if having determined ownership,
6769 neither the county nor the department is able to locate the owner within a reasonable period of
6770 time, the estray shall be sold at a livestock or other appropriate market.

6771 (ii) The proceeds of a sale under Subsection (1)(c)(i), less the costs described in
6772 Subsection (1)(c)(iii), shall be paid to the county selling the estray.

6773 (iii) The livestock or other market conducting the sale under Subsection (1)(c)(i) may
6774 deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.

6775 (2) A county shall publish notice of the sale of an estray:

6776 (a) at least once 10 days before the date of the sale; and

6777 (b) through electronic means or in a publication with general circulation within the

6778 county where the estray was taken into custody.

6779 (3) A purchaser of an estray sold under this section shall receive title to the estray free
6780 and clear of all claims of the estray's owner and a person claiming title through the owner.

6781 (4) A county that complies with the provisions of this section is immune from liability
6782 for the sale of an estray sold at a livestock or other appropriate market.

6783 (5) Notwithstanding the requirements of Subsection (1)(c), a county may employ a
6784 licensed veterinarian to euthanize an estray if the licensed veterinarian determines that the
6785 estray's physical condition prevents the estray from being sold.

6786 Section 283. Section **4-25-202**, which is renumbered from Section 4-25-5 is
6787 renumbered and amended to read:

6788 **~~[4-25-5].~~ 4-25-202. Report of estrays -- Possession -- Relief from liability.**

6789 (1) As used in this section, "division" means the Division of Wildlife Resources.

6790 (2) A person, other than an official of the county or of an animal control office under
6791 contract with the county, who finds an estray shall report [it] the estray to the county or animal
6792 control office immediately.

6793 (3) Upon receipt of notification under Subsection (2), the county or the animal control
6794 office shall:

6795 (a) take possession of the estray; or

6796 (b) if appropriate, authorize the person in possession of the estray to maintain and care
6797 for [it] the estray pending determination and location of the estray's owner.

6798 (4) A person who gives notice of an estray and delivers [it] the estray to the county or
6799 animal control office is not liable to third parties on account of the estray to the extent of the
6800 value of the animal.

6801 (5) (a) If an employee of the department or the division, acting in the employee's
6802 official capacity, finds an estray, the employee shall:

6803 (i) comply with the requirements of Subsection (2); and

6804 (ii) make a reasonable attempt to contact the estray's owner.

6805 (b) The county or animal control office receiving a report of an estray from an

6806 employee of the department or the division shall:

6807 (i) take possession of the estray; or

6808 (ii) authorize the department or the division in writing or through electronic means to
6809 take possession of the estray.

6810 (c) If the county or animal control office does not comply with Subsection (5)(b)
6811 within 72 hours from the time the division reports an estray, the division may take possession
6812 of the estray.

6813 (d) If the division takes possession of the estray, the division shall:

6814 (i) make a reasonable attempt to return the estray to the estray's owner; or

6815 (ii) if unable to return the estray to the estray's owner, deliver the estray to the county
6816 or animal control office.

6817 (e) If the division is unable to take possession of the estray after a reasonable attempt,
6818 the division may cause the death of the estray if the division determines that the estray presents
6819 a material threat to wildlife by:

6820 (i) predation;

6821 (ii) pathogen transmission; or

6822 (iii) genetic introgression.

6823 (f) If the division causes the death of an estray under Subsection (5)(e), the division
6824 shall:

6825 (i) compensate the owner of the estray at full market value of the estray; or

6826 (ii) if the owner of the estray cannot be determined, deposit an amount equal to the full
6827 market value of the estray into the Agricultural and Wildlife Damage Prevention Account
6828 created in Section [~~4-23-7.5~~] [4-23-108](#).

6829 (6) Notwithstanding the requirements of Subsection (5), the division may immediately
6830 take possession of an estray or cause an estray to move away from wildlife if the estray presents
6831 an imminent material threat to wildlife by:

6832 (a) predation;

6833 (b) pathogen transmission; or

6834 (c) genetic introgression.

6835 Section 284. Section ~~4-25-203~~, which is renumbered from Section 4-25-6 is
6836 renumbered and amended to read:

6837 ~~[4-25-6]~~. **4-25-203. Compensation for care of estrays -- Liability of county --**
6838 **Notice required.**

6839 (1) A person who finds an estray and who, after giving notice is authorized by the
6840 county to maintain and care for [it] the estray, is entitled to compensation from the owner, or
6841 from the county, as the case may be, for the reasonable costs of feeding and maintaining the
6842 ~~[animal]~~ estrays; provided, that the county is liable for such cost only if the owner is not located
6843 after diligent search.

6844 (2) No person who finds an estray however, is entitled to reimbursement for feed and
6845 maintenance or for any other cost incurred on behalf of the estray before such time as notice of
6846 the estray is given to the county or to the appropriate animal control office.

6847 Section 285. Section ~~4-25-204~~, which is renumbered from Section 4-25-7 is
6848 renumbered and amended to read:

6849 ~~[4-25-7]~~. **4-25-204. County legislative body authorized to adopt fence**
6850 **ordinance -- Lawful fence to be specified by ordinance -- Dividing the county into**
6851 **divisions for different fencing regulations.**

6852 (1) A county legislative body may, by ordinance, declare and enforce a general policy
6853 within the county for the fencing of farms, subdivisions, or other private property[;] to allow
6854 domestic animals to graze without trespassing on farms, subdivisions, or other private property.

6855 (2) If an ordinance is adopted under Subsection (1), the county legislative body:

6856 (a) shall through ordinance declare and specify what constitutes a lawful fence; and

6857 (b) may divide the county into divisions and prescribe different fencing regulations for
6858 each division.

6859 Section 286. Section ~~4-25-205~~, which is renumbered from Section 4-25-8 is
6860 renumbered and amended to read:

6861 ~~[4-25-8]~~. **4-25-205. Owner liable for trespass of animals -- Exception --**

Intervention by county representative.

(1) The owner of any ~~[neat]~~ cattle, horse, ass, mule, sheep, goat, or swine that trespasses upon the premises of another person, except in cases where the premises are not enclosed by a lawful fence in a county or municipality that has adopted a fence ordinance, is liable in a civil action to the owner or occupant of the premises for any damage inflicted by the trespass.

(2) A county representative may intervene to remove the animal and the county is entitled to fair compensation for costs incurred. If the animal is not claimed within 10 days after written notification is sent to ~~[its]~~ the animal's owner, a county representative may sell the animal to cover costs incurred.

(3) Notwithstanding Subsections (1) and (2), the owner of any ~~[neat]~~ cattle, horse, ass, mule, sheep, goat, or swine that trespasses upon the premises of another person is not liable in a civil action to the owner or occupant of the premises for damage inflicted by the trespass if:

(a) the animal enters the premises from an historic livestock trail, as defined in Section [57-13b-102](#); and

(b) the premises that was trespassed is not enclosed by an adequate fence at the time the trespass occurs.

Section 287. Section **4-25-206**, which is renumbered from Section 4-25-9 is renumbered and amended to read:

~~[4-25-9]~~. **4-25-206. Animals running at large -- Prohibition -- Limited exception.**

~~[No]~~ (1) Except as provided in Subsection (2), no person who owns or is in possession of a stallion, jack, or ridgeling over 18 months old, or a ram over three months old, shall permit ~~[it]~~ the animal to run at large within the limits of, or on the summer range of, any town or settlement~~[- provided, that two-thirds]~~.

(2) Two-thirds of the voters of any county or isolated part of a county may elect through an election to make this section ineffective in all or part of the county during part of the year.

6890 Section 288. Section **4-25-301**, which is renumbered from Section 4-25-12 is
6891 renumbered and amended to read:

6892 **~~[4-25-12].~~ 4-25-301. Allowing swine to run at large -- Class B misdemeanor.**

6893 (1) A person is guilty of a class B misdemeanor if the person:

6894 (a) is in control of a swine; and

6895 (b) allows the swine to run at large.

6896 (2) A person described in Subsection (1) is liable for damage caused by the swine
6897 running at large.

6898 Section 289. Section **4-25-302**, which is renumbered from Section 4-25-12.1 is
6899 renumbered and amended to read:

6900 **~~[4-25-12.1].~~ 4-25-302. Release of swine or feral swine for any purpose.**

6901 A person ~~[may not release]~~ is guilty of a third degree felony if the person releases a:

6902 (1) swine on public or private property for hunting purposes; or

6903 (2) feral swine on public or private property for any purpose.

6904 Section 290. Section **4-25-303**, which is renumbered from Section 4-25-12.3 is
6905 renumbered and amended to read:

6906 **~~[4-25-12.3].~~ 4-25-303. Feral swine detrimental to state's interests -- Seizure,**
6907 **capture, or destruction of feral swine.**

6908 (1) Feral swine are detrimental to the state's interests in agriculture and wildlife.

6909 (2) Feral swine may be seized, captured, or destroyed at any time, in any place, and in
6910 any manner by:

6911 (a) the department and ~~[its]~~ the department's authorized agents;

6912 (b) the Division of Wildlife Resources and ~~[its]~~ the Division of Wildlife Resources'
6913 authorized agents; or

6914 (c) a certified peace officer.

6915 (3) (a) Notwithstanding Section **76-9-301**, and subject to the requirements of this
6916 section, an individual may kill a feral swine roaming on private or public land.

6917 (b) An individual shall obtain the consent of the landowner before killing a feral swine

6918 on private land.

6919 (c) Feral swine may be killed:

6920 (i) year-round;

6921 (ii) in any number; and

6922 (iii) with a firearm, bow and arrow, or crossbow.

6923 (4) Feral swine may not be hunted or killed under Subsection (3)(c):

6924 (a) with the use of artificial light or night vision equipment, except as authorized by
6925 county ordinance; or

6926 (b) from or with any airborne vehicle or device, except as provided in Section [~~4-23-6~~]
6927 [4-23-106](#).

6928 (5) An individual may not receive compensation, or attempt to receive compensation,
6929 from hunting feral swine.

6930 (6) An authorized individual who kills a swine under this section is not liable to the
6931 owner for the loss of the swine, unless:

6932 (a) the swine is conspicuously identified by an ear tag or other form of visual
6933 identification; and

6934 (b) the individual who killed the swine knew the swine was identified by an ear tag or
6935 other form of usual identification.

6936 Section 291. Section ~~4-25-401~~, which is renumbered from Section 4-25-14 is
6937 renumbered and amended to read:

6938 **Part 4. Impounded Livestock**

6939 [~~4-25-14~~]. **4-25-401. Impounded livestock -- Determination and location of**
6940 **owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from**
6941 **liability.**

6942 (1) As used in this section, "impounded livestock" means the following animals seized
6943 and retained in legal custody:

6944 (a) cattle;

6945 (b) calves;

6946 (c) horses;
6947 (d) mules;
6948 (e) sheep;
6949 (f) goats;
6950 (g) hogs; or
6951 (h) domesticated elk.
6952 (2) (a) A county may:
6953 (i) take physical possession of impounded livestock seized and retained within its
6954 boundaries; and
6955 (ii) attempt to determine the name and location of the impounded livestock's owner.
6956 (b) The department shall assist a county who requests help in locating the name and
6957 location of the owner or other person responsible for the impounded livestock.
6958 (c) (i) Notwithstanding the requirements of Title 67, Chapter 4a, Unclaimed Property
6959 Act, if the county cannot determine ownership of the impounded livestock, or, if having
6960 determined ownership, neither the county nor the department is able to locate the owner within
6961 a reasonable period of time, the impounded livestock shall be sold at a livestock or other
6962 appropriate market.
6963 (ii) The proceeds of a sale under Subsection (2)(c)(i), less the costs described in
6964 Subsection (2)(c)(iii), shall be paid to the State School Fund created by the Utah Constitution,
6965 Article X, Section 5, Subsection (1).
6966 (iii) The livestock or other market conducting the sale under Subsection (2)(c)(i) may
6967 deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.
6968 (3) A county shall publish the intended sale of the impounded livestock:
6969 (a) at least 10 days [~~prior to~~] before the date of sale; and
6970 (b) through electronic means or in a publication with general circulation within the
6971 county where the impounded livestock was taken into custody.
6972 (4) A purchaser of impounded livestock sold under this section shall receive title to the
6973 impounded livestock free and clear of all claims of the livestock's owner or a person claiming

title through the owner.

(5) If a county complies with the provisions of this section, ~~[it]~~ the county is immune from liability for the sale of impounded livestock sold at a livestock or other appropriate market.

(6) Notwithstanding the requirements of Subsection (2)(c), a county may employ a licensed veterinarian to euthanize an impounded livestock if the licensed veterinarian determines that the impounded livestock's physical condition prevents the impounded livestock from being sold.

Section 292. Section **4-26-101** is amended to read:

CHAPTER 26. ENCLOSURES AND FENCES

4-26-101. Title -- Failure to close entrance to enclosure -- Class C misdemeanor -- Damages.

(1) This chapter is known as "Enclosures and Fences."

(2) A person who willfully throws down a fence or opens bars or gates into any enclosure other than the person's own enclosure or into any enclosure jointly owned or occupied by such person and others, and leaves ~~[it]~~ the enclosure open:

(a) is guilty of a class C misdemeanor~~[-];~~ and

(b) is liable in damage for any injury sustained by any person as a result of such an act.

Section 293. Section **4-26-102** is amended to read:

4-26-102. Adjoining landowners -- Partition fences -- Contribution.

(1) If two or more persons agree to a fence enclosure or to the construction of a partition fence, the cost of construction and maintenance of the fence shall be apportioned between each party to the agreement based upon the amount of land enclosed.

(2) A person who is a party to an agreement described in Subsection (1) and who fails to maintain such person's part of the fence is liable in a civil action for any damage sustained by another party to the agreement as a result of the failure to maintain the fence.

(3) (a) If a person has enclosed land with a fence and the owner of adjoining land desires to enclose land adjoining the fence so that the existing fence or any part of it will

become a partition fence between such tracts of land, the owner of the adjoining land shall, before making the enclosure, pay to the owner of the existing fence one-half of the value of all that part of the fence that will become a partition fence~~[-; and when one party].~~

(b) If a person whose land is enclosed, in whole or in part, by a partition fence ceases to improve or cultivate [his] that person's land or opens [his] the enclosure [he may not take away any part of the partition fence belonging to him, if the owner or occupant of the adjoining enclosure within 30 days after notice, pays for the value of such fence, nor shall the partition fence be removed if the crops enclosed by it will be exposed to injury.], the person:

(i) shall give notice to the other owner of the partition fence and an opportunity to pay for the person's reasonable value of the fence;

(ii) may not remove any part of the partition fence until the earlier of:

(A) 30 days after the day on which the person gave notice to the other owner, as described in Subsection (3)(b)(i); or

(B) the day the other owner pays the person for the person's reasonable value of the fence; and

(iii) notwithstanding Subsection (3)(b)(ii), may not remove the partition fence if the crops enclosed by the fence will be exposed to injury.

Section 294. Section **4-26-104** is amended to read:

4-26-104. Fencing for bison.

Perimeter fencing intended to hold bison shall meet the following minimum standards:

(1) fence sections and gates shall:

(a) reach a height of at least ~~[six]~~ eight feet above ground level; and

(b) be constructed in a mesh pattern consisting of:

(i) hi-tensile steel wire of at least 14-1/2 gauge;

(ii) a maximum mesh size of six inches by six inches; or

(iii) a material with the strength equivalent of the material described in Subsections (1)(b)(i) and (ii);

(2) fence posts shall:

- 7030 (a) (i) be constructed of treated wood at least four inches in diameter; and
7031 (ii) be constructed of a material with the strength equivalent of the material described
7032 in Subsection (2)(a)(i);
- 7033 (b) reach a height of at least six feet, two inches above ground level;
7034 (c) have at least two feet of length below ground level;
7035 (d) be installed at intervals of no more than 20 feet; and
7036 (e) if located on a corner or connected to a gate, be braced with wood or the strength
7037 equivalent of wood; and
- 7038 (3) fence stays shall:
- 7039 (a) be constructed of treated wood or steel;
7040 (b) be installed at intervals of no more than 10 feet from any fence post; and
7041 (c) reach a height of at least six feet, two inches above ground level.

7042 Section 295. Section **4-30-101** is enacted to read:

7043 **CHAPTER 30. LIVESTOCK MARKETS**

7044 **4-30-101. Title.**

7045 This chapter is known as "Livestock Markets."

7046 Section 296. Section **4-30-102**, which is renumbered from Section 4-30-1 is
7047 renumbered and amended to read:

7048 **[4-30-1]. 4-30-102. Definitions.**

7049 For the purpose of this chapter:

- 7050 (1) "Consignor" or "shipper" means any person who consigns, ships, or delivers
7051 livestock to a livestock market for storage, handling, or sale.
- 7052 (2) (a) "Livestock market" means a public market place consisting of pens or other
7053 enclosures where all classes of livestock or poultry are received on consignment and kept for
7054 subsequent sale, either through public auction or private sale.
- 7055 (b) "Livestock market" does not include:
- 7056 (i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock
7057 breeder, or feeder who is going out of such business; or

(ii) a place where an association of livestock breeders or an individual livestock breeder offers registered livestock or breeding sires for sale and assumes all responsibility for the sale, guarantees title to the livestock or sires sold, and arranges with the department for brand inspection of all animals sold.

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

Section 297. Section ~~4-30-103~~, which is renumbered from Section 4-30-2 is renumbered and amended to read:

~~[4-30-2].~~ **4-30-103. Livestock Market Committee created -- Composition -- Terms -- Removal -- Compensation -- Duties.**

(1) There is created a Livestock Market Committee which consists of the following seven members appointed to a four-year term of office by the commissioner:

- (a) one member recommended by the livestock market operators in the state;
- (b) one member recommended by the Utah Cattlemen's Association;
- (c) one member recommended by the Utah Dairywomen's Association;
- (d) one member recommended by the Utah Woolgrowers^[1] Association;
- (e) one member recommended by the horse industry;
- (f) one member recommended by the Utah Farm Bureau Federation; and
- (g) one member recommended by the Utah Farmers Union.

(2) Notwithstanding the requirements of Subsection (1), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(3) No more than four members shall be members of the same political party.

(4) (a) The commissioner may remove a member of the committee at the request of the association or group which recommended the member's appointment.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) The Livestock Market Committee shall elect a chair from its membership, who

7086 shall serve for a term of office of two years, but may be reelected for subsequent terms.

7087 (6) (a) The chair is responsible for the call and conduct of meetings.

7088 (b) Four members constitute a quorum for the transaction of official business.

7089 (7) A member may not receive compensation or benefits for the member's service, but
7090 may receive per diem and travel expenses in accordance with:

7091 (a) Section 63A-3-106;

7092 (b) Section 63A-3-107; and

7093 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
7094 63A-3-107.

7095 (8) The Livestock Market Committee acts as advisor to the department with respect to
7096 the administration and enforcement of this chapter and makes recommendations necessary to
7097 carry out the intent of this chapter to the commissioner.

7098 Section 298. Section 4-30-104, which is renumbered from Section 4-30-3 is
7099 renumbered and amended to read:

7100 ~~[4-30-3].~~ **4-30-104. Department authorized to make and enforce rules.**

7101 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
7102 Rulemaking Act, to make and enforce such rules ~~[as in its judgment are]~~ necessary to
7103 administer and enforce this chapter.

7104 Section 299. Section 4-30-105, which is renumbered from Section 4-30-4 is
7105 renumbered and amended to read:

7106 ~~[4-30-4].~~ **4-30-105. License required -- Application -- Fee -- Expiration --**
7107 **Renewal.**

7108 (1) (a) No person may operate a livestock market in this state without a license issued
7109 by the department.

7110 (b) Application for a license shall be made to the department upon forms prescribed
7111 and furnished by ~~[it. The]~~ the department, and the application shall specify:

7112 (i) if the applicant is an individual, the name, address, and date of birth of the
7113 applicant; or

7114 (ii) if the applicant is a partnership, corporation, or association, the name, address, and
7115 date of birth of each person who has a financial interest in the applicant and the amount of each
7116 person's interest;

7117 (iii) a certified statement of the financial assets and liabilities of the applicant detailing:

7118 (A) current assets;

7119 (B) current liabilities;

7120 (C) long-term assets; and

7121 (D) long-term liabilities;

7122 (iv) a legal description of the property where the market is proposed to be located, [its]
7123 the property's street address, and a description of the facilities proposed to be used in
7124 connection with [it] the property;

7125 (v) a schedule of the charges or fees the applicant proposes to charge for each service
7126 rendered; and

7127 (vi) a detailed statement of the trade area proposed to be served by the applicant, the
7128 potential benefits which will be derived by the livestock industry, and the specific services the
7129 applicant intends to render at the livestock market.

7130 (2) (a) Upon receipt of a proper application, payment of a license fee in an amount
7131 determined by the department pursuant to Subsection [~~4-2-2~~] 4-2-103(2), and a favorable
7132 recommendation by the Livestock Market Committee, the commissioner, if satisfied that the
7133 convenience and necessity of the industry and the public will be served, shall issue a license
7134 allowing the applicant to operate the livestock market proposed in the application valid through
7135 December 31 of the year in which the license is issued, subject to suspension or revocation for
7136 cause.

7137 (b) A livestock market license is annually renewable on or before December 31 of each
7138 year upon the payment of an annual license renewal fee in an amount determined by the
7139 department pursuant to Subsection [~~4-2-2~~] 4-2-103(2).

7140 (3) No livestock market original or renewal license may be issued until the applicant
7141 has provided the department with a certified copy of a surety bond filed with the United States

7142 Department of Agriculture as required by the Packers and Stockyards Act, 1921, 7 U.S.C.
7143 Section 181 et seq.

7144 Section 300. Section **4-30-106**, which is renumbered from Section 4-30-5 is
7145 renumbered and amended to read:

7146 **~~[4-30-5].~~ 4-30-106. Hearing on license application -- Notice of hearing.**

7147 (1) Upon the filing of an application, the chairman of the Livestock Market Committee
7148 shall set a time for hearing on the application in the city or town nearest the proposed site of the
7149 livestock market and cause notice of the time and place of the hearing together with a copy of
7150 the application to be forwarded by mail, not less than 15 days before the hearing date, to the
7151 following:

7152 (a) each licensed livestock market operator within the state; and

7153 (b) each livestock or other interested association or group of persons in the state that
7154 has filed written notice with the committee requesting receipt of notice of such hearings.

7155 (2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

7156 (a) in a daily or weekly newspaper of general circulation within the city or town where
7157 the hearing is scheduled; and

7158 (b) on the Utah Public Notice Website created in Section [63F-1-701](#).

7159 Section 301. Section **4-30-107**, which is renumbered from Section 4-30-6 is
7160 renumbered and amended to read:

7161 **~~[4-30-6].~~ 4-30-107. Livestock Market Committee -- Guidelines delineated for**
7162 **decision on application.**

7163 (1) The Livestock Market Committee in determining whether to recommend approval
7164 or denial of the application shall consider:

7165 (a) the applicant's proven or potential ability to comply with the Packers and
7166 Stockyards Act, 7 U.S.C. Sec. 221 through 229b;

7167 (b) the financial stability, business integrity, and fiduciary responsibility of the
7168 applicant;

7169 (c) the livestock marketing benefits which potentially will be derived from the

7170 establishment and operation of the public livestock market proposed;
7171 (d) the need for livestock market services in the trade area proposed;
7172 (e) the adequacy of the livestock market location and facilities proposed in the
7173 application, including facilities for health inspection and testing;
7174 (f) whether the operation of the proposed livestock market is likely to be permanent;
7175 and
7176 (g) the economic feasibility of the proposed livestock market based on competent
7177 evidence.

7178 (2) Any interested person may appear at the hearing on the application and give an
7179 opinion or present evidence either for or against granting the application.

7180 Section 302. Section ~~4-30-108~~, which is renumbered from Section 4-30-7 is
7181 renumbered and amended to read:

7182 ~~[4-30-7]~~. **4-30-108. Transfer of livestock market license permitted --**
7183 **Conditions.**

7184 (1) No livestock market license is transferable to another person without the prior
7185 approval of the commissioner.

7186 (2) A change in the membership of a partnership or association, or the sale or transfer
7187 of a 25% or greater interest in the stock ownership of a corporate livestock market shall be
7188 considered a transfer of the livestock market license and is subject to the requirements of this
7189 section.

7190 (3) Application to allow transfer of a livestock market license shall be made to the
7191 department on a form prescribed and furnished by [it] the department.

7192 (4) The commissioner may grant a transfer of the license:

7193 (a) if the proposed transferee meets all the requirements specified for an original
7194 license in Section ~~[4-30-4]~~ 4-30-105; and

7195 (b) based on the criteria specified in Section ~~[4-30-6]~~ 4-30-107.

7196 Section 303. Section ~~4-30-109~~, which is renumbered from Section 4-30-7.5 is
7197 renumbered and amended to read:

7198 ~~[4-30-7.5].~~ **4-30-109. Financial responsibility.**

7199 Each livestock market shall maintain a financial condition of total assets in excess of
7200 total liabilities, including total current assets in excess of total current liabilities.

7201 Section 304. Section **4-30-110**, which is renumbered from Section 4-30-7.6 is
7202 renumbered and amended to read:

7203 ~~[4-30-7.6].~~ **4-30-110. Custodial accounts for trust funds.**

7204 (1) (a) Each payment that a livestock buyer makes to a livestock market selling on
7205 commission is a trust fund.

7206 (b) Funds deposited ~~[in]~~ into custodial accounts are trust funds.

7207 (2) Each livestock market engaged in selling livestock on a commission or agency
7208 basis shall establish and maintain a separate bank account designated as "custodial account for
7209 shippers' proceeds," or some similar identifying designation, to disclose that the depositor is
7210 acting as a fiduciary and that the funds in the account are trust funds.

7211 (3) (a) The livestock market shall deposit ~~[in]~~ into its custodial account before the close
7212 of the next business day after the livestock is sold:

7213 (i) the proceeds that have been collected from the sale of the livestock ~~[that have been~~
7214 ~~collected]~~; and

7215 (ii) an amount equal to the proceeds receivable from the sale of livestock that are due
7216 from:

7217 (A) the livestock market;

7218 (B) any owner, officer, or employee of the livestock market; and

7219 (C) any buyer to whom the livestock market has extended credit.

7220 (b) The livestock market shall thereafter deposit ~~[in]~~ into the custodial account all
7221 proceeds collected until the account has been reimbursed in full~~[-]~~ and shall, before the close of
7222 the seventh day following the sale of livestock, deposit an amount equal to all the remaining
7223 proceeds receivable regardless of whether ~~[or not]~~ the proceeds have been collected by the
7224 livestock market.

7225 (4) The custodial account shall be drawn on only ~~[for payment of]~~:

7226 (a) for payment of the net proceeds to the consignor or shipper, or to any person that
7227 the livestock market knows is entitled to payment;

7228 (b) to pay lawful charges against the consignment of livestock which the market agency
7229 shall, in its capacity as agent, be required to pay; and

7230 (c) to obtain any sums due the livestock market as compensation for its services.

7231 (5) (a) Each livestock market shall keep accounts and records that will disclose at all
7232 times the handling of funds in the custodial account.

7233 (b) Accounts and records shall at all times disclose the name of the consignors and the
7234 amount due and payable to each from funds in the custodial account.

7235 (6) The custodial account shall be established and maintained in a bank whose deposits
7236 are insured by the Federal Deposit Insurance Corporation.

7237 Section 305. Section **4-30-111**, which is renumbered from Section 4-30-8 is
7238 renumbered and amended to read:

7239 **~~[4-30-8].~~ 4-30-111. Weighman license required -- Application -- Fee -- Bond**
7240 **-- Expiration -- Renewal.**

7241 (1) (a) No person may act as a weighman at a livestock market without a license from
7242 the department.

7243 (b) Application for a weighman's license shall be made to the department upon forms
7244 prescribed and furnished by [it] the department.

7245 (c) Upon receipt of a proper application, payment of a license fee in an amount
7246 determined by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2), and deposit of either
7247 a corporate surety bond or trust fund agreement with the department in the principal amount of
7248 \$1,000, the commissioner shall issue a license allowing the applicant to act as a weighman
7249 through December 31 of the year in which the license is issued, subject to suspension or
7250 revocation for cause.

7251 (d) A weighman's license is annually renewable on or before December 31 of each year
7252 upon the payment of an annual license renewal fee in an amount determined by the department
7253 pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2).

(2) (a) Each weighman's surety bond shall be written by a surety licensed under the laws of Utah and name the state, as obligee, for the use and benefit of persons who consign livestock to a livestock market.

(b) The bond shall further be conditioned for the faithful and accurate weighing of livestock consigned to a livestock market[;] and for the payment of court costs and [a] reasonable [~~attorney's fee~~] attorney fees to the prevailing party incident to any suit brought upon the bond.

Section 306. Section **4-30-112**, which is renumbered from Section 4-30-9 is renumbered and amended to read:

[4-30-9]. 4-30-112. Suspension or revocation of license -- Grounds.

The department is authorized to suspend or revoke the license of any livestock market or livestock market weighman who:

(1) violates any provision of this chapter or any rule [~~promulgated~~] made under this chapter; or

(2) engages in any fraudulent or deceitful activity.

Section 307. Section **4-31-105** is amended to read:

4-31-105. Outbreak of contagious or infectious disease -- Assistance of federal authorities.

If there is an outbreak of contagious or infectious disease among domestic animals in this state that imperils livestock [~~in adjoining states~~], the commissioner [~~shall seek~~] may request the assistance of the United States Department of Agriculture, Animal and Plant Health Inspection Service, in preventing the spread of the disease to other states.

Section 308. Section **4-31-106** is amended to read:

4-31-106. Epidemic of contagious or infectious disease -- Condemnation or destruction of infected or exposed livestock -- Destruction of other property.

(1) If there is an outbreak of contagious or infectious foreign animal disease of epidemic proportion among domestic animals in this state that imperils livestock, the commissioner, with approval of the governor, may condemn, destroy, or dispose of any

infected livestock or any livestock exposed to~~[, or deemed]~~ the disease or considered by the commissioner capable of~~;~~ communicating the disease to other domestic animals.

(2) The commissioner may, with gubernatorial approval, condemn and destroy any barns, sheds, corrals, pens, or other property necessary to prevent the spread of contagion or infection.

Section 309. Section **4-31-107** is amended to read:

4-31-107. Appraisal of fair market value before destruction.

(1) Before any livestock or property is ~~[condemned and]~~ destroyed under Section **4-31-106**, an appraisal of the fair market value of the livestock or other property shall be forwarded to the commissioner by a panel of three qualified appraisers appointed as follows:

(a) one by the commissioner;

(b) one by the owner of the livestock or other property subject to condemnation; and

(c) one by the appraisers specified in Subsections (1)(a) and (b).

(2) After review, the commissioner shall forward the appraisal to the board of examiners described in Subsection **63G-9-201(2)**~~;~~ together with the commissioner's recommendation concerning the amount, if any, that should be allowed.

(3) Any costs incurred in the appraisal shall be paid by the state.

Section 310. Section **4-31-108** is amended to read:

4-31-108. Euthanasia for postmortem examination.

The commissioner may order the ~~[slaughter and post-mortem]~~ euthanasia and postmortem examination of a diseased domestic animal if the exact nature of the animal's disease is not readily ~~[ascertained]~~ determined through other means.

Section 311. Section **4-31-109.1** is amended to read:

4-31-109.1. Trichomoniasis fines.

(1) A person who knowingly sells a bull infected with trichomoniasis, other than to slaughter, without declaring the disease status of the animal shall be subject to citation and fines as prescribed by the department or may be called to appear before an administrative proceeding by the department, as established by rule in accordance with Title 63G, Chapter 3,

7310 Utah Administrative Rulemaking Act, and Section 4-31-109.

7311 (2) After May 15 of each calendar year, an owner of a bull that has not been tested for
7312 trichomoniasis ~~[shall]~~ may be fined \$1,000 per ~~[violation]~~ bull.

7313 (3) An owner of a bull that has not been tested for trichomoniasis and that has been
7314 exposed to female cattle ~~[shall]~~ may be fined \$1,000 per ~~[violation]~~ animal regardless of the
7315 time of year.

7316 Section 312. Section 4-31-113 is amended to read:

7317 **4-31-113. Restrictions on movement of infected or exposed animals.**

7318 (1) A person who owns or has possession of an animal and knows that the animal is
7319 infected with, or has been exposed to, any contagious or infectious disease~~[-]~~ may not:

7320 (a) permit the animal to run at large~~[-]~~ or come in contact with~~[-]~~ an animal that can be
7321 infected; or

7322 (b) sell, ship, trade, or give away ~~[an]~~ the infected animal without disclosing that the
7323 animal is diseased or has been exposed to disease.

7324 (2) A person who violates Subsection (1) is liable to the owner or occupant of the
7325 premises for any damage inflicted by an infected animal.

7326 ~~[(2)]~~ (3) The provisions of this section do not apply to protected wildlife that is:

7327 (a) living in nature; and

7328 (b) under the jurisdiction of the Division of Wildlife Resources.

7329 Section 313. Section 4-31-114 is amended to read:

7330 **4-31-114. Report of vesicular disease.**

7331 (1) A person who identifies symptoms of vesicular disease in livestock shall
7332 immediately report it to the department.

7333 (2) Failure of a veterinarian licensed in this state to report to the department a
7334 diagnosed case of vesicular disease ~~[to the department]~~ constitutes ground for the revocation of
7335 such veterinarian's license.

7336 (3) Failure by an owner of livestock to report symptoms of vesicular disease among the
7337 owner's livestock constitutes forfeiture of the right to claim an indemnity for an animal

7338 ~~[slaughtered]~~ euthanized on account of the disease.

7339 Section 314. Section **4-31-115** is amended to read:

7340 **4-31-115. Contagious or infectious disease -- Duties of department.**

7341 (1) (a) The department shall investigate and may quarantine any reported case of
7342 contagious or infectious disease, or any epidemic~~[;]~~ or poisoning~~;~~ affecting a domestic animal
7343 or an animal that the department believes may jeopardize the health of animals within the state.

7344 (b) The department shall make a prompt and thorough examination of all
7345 circumstances surrounding the disease, epidemic, or poisoning and may order quarantine, care,
7346 or any necessary remedies.

7347 (c) The department may also order immunization or testing and sanitary measures to
7348 prevent the spread of disease.

7349 (d) ~~[Investigations]~~ An investigation involving fish or wildlife shall be conducted
7350 under a cooperative agreement with the Division of Wildlife Resources.

7351 (2) (a) If the owner or person in possession of such ~~[animals]~~ an animal, after written
7352 notice from the department, fails to take the action ordered, the commissioner is authorized to
7353 seize and hold the ~~[animals]~~ animal and take action necessary to prevent the spread of disease,
7354 including immunization, testing, dipping, or spraying.

7355 (b) An animal seized for testing or treatment under this section ~~[shall]~~ may be sold by
7356 the commissioner at public sale to reimburse the department for all costs incurred in the
7357 seizure, testing, treatment, maintenance, and sale of the animal unless the owner, before the
7358 sale, tenders payment for the costs incurred by the department.

7359 (c) (i) No seized animal shall be sold until the owner or person in possession of the
7360 animal is served with a notice specifying the itemized costs incurred by the department ~~[and]~~,
7361 the time, place, and purpose of sale~~;~~ and the number of animals to be sold.

7362 (ii) The notice shall be served at least three days in advance of sale in the manner:

7363 (A) prescribed for personal service in Rule 4(d)(1), Utah Rules of Civil Procedure; or

7364 (B) if the owner cannot be found after due diligence, ~~[in the manner]~~ prescribed for
7365 service by publication in Rule 4(d)(4), Utah Rules of Civil Procedure.

(3) (a) Any amount realized from the sale of the animal over the total charges shall be paid to the owner of the animal[;] if the owner is known or can by reasonable diligence be found[; otherwise,].

(b) If the owner is unknown and cannot be found by reasonable diligence, as described in Subsection (3)(a), the excess shall remain in the General Fund.

(c) If the total cost incurred is greater than the amount realized, the owner shall pay the difference.

Section 315. Section **4-31-116** is amended to read:

4-31-116. Quarantine -- Peace officers to assist in maintenance of quarantine.

(1) The commissioner may quarantine any infected domestic animal or area within the state to prevent the spread of infectious or contagious disease.

(2) A sheriff or other peace officer in the state shall, upon request of the commissioner, assist the department in maintaining a quarantine and arrest a person who violates ~~[it]~~ the quarantine.

(3) The department shall pay all costs and fees incurred by any law enforcement authority in assisting the department.

Section 316. Section **4-32-101**, which is renumbered from Section 4-32-1 is renumbered and amended to read:

**CHAPTER 32. UTAH MEAT AND POULTRY PRODUCTS INSPECTION AND
LICENSING ACT**

~~[4-32-1].~~ **4-32-101. Title.**

This chapter ~~[shall be]~~ is known as ~~[and may be cited as]~~ the "Utah Meat and Poultry Products Inspection and Licensing Act."

Section 317. Section **4-32-102**, which is renumbered from Section 4-32-2 is renumbered and amended to read:

~~[4-32-2].~~ **4-32-102. Purpose declaration.**

(1) It is the purpose of this chapter to provide a meat and poultry inspection program in the state at least equal to the programs imposed under the;

7394 (a) Federal Meat Inspection Act, [~~the federal~~] 21 U.S.C. Sec. 601 et seq;

7395 (b) Poultry Products Inspection Act, [~~and the~~] 21 U.S.C. Sec. 451 et seq;

7396 (c) Humane Slaughter Act[~~;~~], 7 U.S.C. Sec. 1901 et seq; and

7397 (d) the Egg Product Inspection Act, 21 U.S.C. 1031 et seq.

7398 (2) The commissioner shall administer and enforce this chapter to accomplish [~~this~~] the
7399 purpose described in Subsection (1).

7400 Section 318. Section **4-32-103**, which is renumbered from Section 4-32-2.1 is
7401 renumbered and amended to read:

7402 [~~4-32-2.1~~]. **4-32-103. Adoption of federal provisions.**

7403 (1) The following federal laws, regulations, and standards are adopted by reference:

7404 (a) 9 C.F.R. Part 300 through Part 500 and Part 590;

7405 (b) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

7406 (c) the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; [~~and~~]

7407 (d) the Humane Slaughter Act, 7 U.S.C. Sec. 1901 et seq[~~;~~]; and

7408 (e) the Egg Product Inspection Act, 21 U.S.C. 1031 et seq.

7409 (2) Changes to the federal laws, regulations, and standards referenced in Subsection (1)
7410 are considered incorporated as those changes are made.

7411 Section 319. Section **4-32-104**, which is renumbered from Section 4-32-2.2 is
7412 renumbered and amended to read:

7413 [~~4-32-2.2~~]. **4-32-104. Emergency rules.**

7414 The department may make emergency rules concerning the meat and poultry inspection
7415 program only in accordance with Section **63G-3-304**.

7416 Section 320. Section **4-32-105**, which is renumbered from Section 4-32-3 is
7417 renumbered and amended to read:

7418 [~~4-32-3~~]. **4-32-105. Definitions.**

7419 As used in this chapter:

7420 (1) "Adulterated" means any meat or poultry product that:

7421 (a) bears or contains any poisonous or deleterious substance that may render it

injurious to health, but, if the substance is not an added substance, the meat or poultry product is not considered adulterated under this subsection if the quantity of the substance in or on the meat or poultry product does not ordinarily render it injurious to health;

(b) bears or contains, by reason of the administration of any substance to the animal or otherwise, any added poisonous or added deleterious substance that in the judgment of the commissioner makes the meat or poultry product unfit for human food;

(c) contains, in whole or in part, a raw agricultural commodity and that commodity bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a;

(d) bears or contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(e) bears or contains any color additive that is unsafe within the meaning of 21 U.S.C. Sec. 379e[;], provided[;] that a meat or poultry product that is not otherwise considered adulterated under Subsection (1)(c) or (d) [of this section] is considered adulterated if use of the pesticide chemical, food additive, or color additive is prohibited in official establishments by federal law, regulation, or standard;

(f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(g) has been prepared, packaged, or held under unsanitary conditions if the meat or poultry product may have become contaminated with filth, or if it may have been rendered injurious to health;

(h) is in whole or in part the product of an animal that died other than by slaughter;

(i) is contained in a container that is composed, in whole or in part, of any poisonous or deleterious substance that may render the meat or poultry product injurious to health;

(j) has been intentionally subjected to radiation, unless the use of the radiation conforms with a regulation or exemption in effect pursuant to 21 U.S.C. Sec. 348;

(k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or if damage or inferiority is concealed in any manner; or if any substance has been added, mixed,

7450 or packed with the meat or poultry product to increase its bulk or weight, [or] reduce its quality
7451 or strength, or [to] make it appear better or of greater value; or

7452 (1) is margarine containing animal fat and any of the raw material used in the margarine
7453 consists in whole or in part of any filthy, putrid, or decomposed substance.

7454 (2) "Animal" means a domesticated or captive mammalian or avian species.

7455 (3) "Animal food manufacturer" means any person engaged in the business of
7456 preparing animal food derived from animal carcasses or parts or products of the carcasses.

7457 (4) "Ante mortem inspection" means an inspection of a live animal immediately before
7458 slaughter.

7459 (5) "Broker" means any person engaged in the business of buying and selling meat or
7460 poultry products other than for the person's own account.

7461 (6) "Capable of use as human food" means any animal carcass, or part or product of a
7462 carcass, unless it is denatured or otherwise identified as required by rules of the department to
7463 deter [its] the carcass or product's use as human food.

7464 (7) "Commissioner" includes a person authorized by the commissioner to carry out
7465 ~~[this chapter's provisions.]~~ the provisions of this chapter.

7466 (8) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle,
7467 wrapper, or cover.

7468 (9) "Custom exempt processing" means processing meat or wild game as a service for
7469 the person who owns the meat or wild game and uses the meat and meat food products for the
7470 person's own consumption, including consumption by immediate family members and
7471 non-paying guests.

7472 (10) "Custom exempt slaughter":

7473 (a) means slaughtering an animal as a service for the person who owns the animal and
7474 uses the meat and meat products for the person's own consumption, including consumption by
7475 immediate family members and non-paying guests; and

7476 (b) includes farm custom slaughter.

7477 (11) "Diseased animal":

7478 (a) means an animal that:

7479 (i) is diagnosed with a disease not known to be cured; or

7480 (ii) has exhibited signs or symptoms of a disease that is not known to be cured; and

7481 (b) does not include an otherwise healthy animal that suffers only from injuries such as
7482 fractures, cuts, or bruises.

7483 (12) "Farm custom mobile unit" means a portable slaughter vehicle or trailer that is
7484 used by a farm custom slaughter licensee to slaughter animals.

7485 (13) "Farm custom slaughter" means custom exempt slaughtering of an animal for an
7486 owner without official inspection.

7487 (14) "Farm custom slaughter license" means a license issued by the department to
7488 allow farm custom slaughter.

7489 (15) "Farm custom slaughter NOT FOR SALE tag" means a tag issued by the
7490 department to the owner of the facility before the animal is slaughtered that specifies the
7491 animal's identification and certifies its ownership[, which is issued by the department through a
7492 ~~brand inspector to the owner of the animal before it is slaughtered.~~].

7493 (16) "Federal acts" means:

7494 (a) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

7495 (b) the Federal Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; [~~and~~]

7496 (c) the Humane Slaughter Act, 7 U.S.C. 1901 et seq[:]; and

7497 (d) the Egg Product Inspection Act, 21 U.S.C. 1031 et seq.

7498 (17) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved June
7499 25, 1938 (52 Stat. 1040) (21 U.S.C. 301 et seq.), and any amendments to [it] the act.

7500 (18) "Immediate container" means any consumer package, or any other container, in
7501 which meat or poultry products not consumer packaged[:]; are packed.

7502 (19) "Inspector" means a [~~licensed veterinarian or competent lay person working under~~
7503 ~~the supervision of a licensed graduate veterinarian.~~] department employee who is trained in:

7504 (a) humane handling;

7505 (b) ante-mortem and post-mortem inspection;

7506 (c) processing inspection; and

7507 (d) regulatory requirements.

7508 (20) "Label" means a display of printed or graphic matter upon any meat or poultry
7509 product or the immediate container, not including package liners, of any such product.

7510 (21) "Labeling" means all labels and other printed or graphic matter:

7511 (a) upon any meat or poultry product or any of its containers or wrappers; or

7512 (b) accompanying a meat or poultry product.

7513 (22) "Licensee" means a person who holds a valid farm custom slaughter license.

7514 (23) "Meat" means the edible muscle, and other edible parts, of an animal, including
7515 edible:

7516 (a) skeletal muscle;

7517 (b) organs;

7518 (c) muscle found in the tongue, diaphragm, heart, or esophagus; and

7519 (d) fat, bone, skin, sinew, nerve, or blood vessel that normally accompanies meat and is
7520 not ordinarily removed in processing.

7521 (24) "Meat establishment" means a plant or fixed premises used to:

7522 (a) slaughter animals for human consumption; or

7523 (b) process meat or poultry products for human consumption.

7524 (25) "Meat product" means any product capable of use as human food that is made
7525 wholly or in part from any meat or other part of the carcass of any non-avian animal.

7526 (26) "Misbranded" means any meat or poultry product that:

7527 (a) bears a label that is false or misleading in any particular;

7528 (b) is offered for sale under the name of another food;

7529 (c) is an imitation of another food, unless the label bears, in type of uniform size and
7530 prominence, the word "imitation" followed by the name of the food imitated;

7531 (d) if ~~[its]~~ it has a container, the container is ~~[so]~~ made, formed, or filled as to be
7532 misleading;

7533 (e) does not bear a label showing:

- 7534 (i) the name and place of business of the manufacturer, packer, or distributor; and
7535 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or
7536 numerical count[;], provided[;] that under this Subsection (26)(e), exemptions as to meat and
7537 poultry products not in containers may be established by rules of the department and that under
7538 this Subsection (26)(e)(ii), reasonable variations may be permitted, and exemptions for small
7539 packages may be established for meat or poultry products by rule of the department;
- 7540 (f) does not bear any word, statement, or other information required by or under
7541 authority of this chapter to appear on the label or other labeling that is not prominently placed
7542 with such conspicuousness, as compared with other words, statements, designs, or devices, in
7543 the labeling, and in such terms as to render it likely to be read and understood by the ordinary
7544 individual under customary conditions of purchase and use;
- 7545 (g) is a food for which a definition and standard of identity or composition has been
7546 prescribed by rules of the department under Section [~~4-32-7~~] 4-32-109 if the food does not
7547 conform to the definition and standard and the label does not bear the name of the food and any
7548 other information that is required by the rule;
- 7549 (h) is a food for which a standard of fill has been prescribed by rule of the department
7550 for the container and the actual fill of the container falls below that prescribed unless [~~its~~] the
7551 food's label bears, in a manner and form as the rule specifies, a statement that [~~it~~] the food falls
7552 below the standard;
- 7553 (i) is a food for which no standard or definition of identity has been prescribed under
7554 Subsection (26)(g) unless [~~its~~] the label bears:
- 7555 (i) the common or usual name of the food, if there be any; and
7556 (ii) if [~~it~~] the food is fabricated from two or more ingredients, the common or usual
7557 name of each such ingredient[;], except that spices, flavorings, and colorings may, when
7558 authorized by the department, be designated as spices, flavorings, and colorings without
7559 naming each[;], provided[;] that to the extent that compliance with the requirements of this
7560 Subsection (26)(i)(ii) is impracticable, or results in deception or unfair competition,
7561 exemptions shall be established by rule;

(j) is a food that purports to be or is represented to be for special dietary uses, unless ~~[its]~~ the label bears information concerning ~~[its]~~ the food's vitamin, mineral, and other dietary properties as the department, after consultation with the Secretary of Agriculture of the United States, prescribes by rules as necessary to inform purchasers as to ~~[its]~~ the food's value for special dietary uses;

(k) bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless ~~[it]~~ the food bears labeling stating that fact~~;~~, provided~~;~~ that to the extent that compliance with the requirements of this subsection are impracticable, exemptions shall be prescribed by rules of the department; or

(l) does not bear directly thereon and on ~~[its]~~ the food's containers, as the department may prescribe by rule, the official inspection legend and establishment number of the official establishment where the product was prepared, and, unrestricted by any of the foregoing, other information as the department may require by rule to assure that the meat or poultry product will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain ~~[it]~~ the meat or poultry product in a wholesome condition.

(27) "Official certificate" means any certificate prescribed by rules of the department for issuance by an inspector or other person performing official functions under this chapter.

(28) "Official device" means ~~[any]~~ a device prescribed or authorized by the commissioner for use in applying ~~[any]~~ an official mark.

(29) "Official establishment" means ~~[any]~~ an establishment at which inspection of the slaughter of animals or the preparation of meat or poultry products is maintained under the authority of this chapter.

(30) "Official inspection" means where domestic animals are slaughtered or preparations for slaughter are carried out under grant of inspection that is issued by the department.

~~[(30)]~~ (31) "Official inspection legend" means ~~[any]~~ a symbol prescribed by rules of the department showing that a meat or poultry product was inspected and passed in accordance with this chapter.

7590 ~~[(31)]~~ (32) "Official mark" means the official legend or ~~[any]~~ other symbol prescribed
7591 by rules of the department to identify the status of ~~[any]~~ an animal carcass or meat or poultry
7592 product under this chapter.

7593 ~~[(32)]~~ (33) "Pesticide chemical," "food additive," "color additive," and "raw
7594 agricultural commodity," have the same meanings for purposes of this chapter as ascribed to
7595 them in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

7596 ~~[(33)]~~ (34) "~~[Post mortem]~~ Postmortem inspection" means an inspection of a
7597 slaughtered food animal's carcass after slaughter.

7598 ~~[(34)]~~ (35) "Poultry" means any domesticated bird, whether living or dead.

7599 ~~[(35)]~~ (36) "Poultry product" means any product capable of use as human food that is
7600 made wholly or in part from any poultry carcass, excepting products that contain poultry
7601 ingredients in relatively small proportion or that historically have not been considered by
7602 consumers as products of the poultry food industry, and that are exempted from definition as a
7603 poultry product by the commissioner.

7604 ~~[(36)]~~ (37) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut
7605 up, or otherwise manufactured or processed.

7606 ~~[(37)]~~ (38) "Process" means to cut, grind, manufacture, compound, smoke, intermix, or
7607 prepare meat or poultry products.

7608 ~~[(38)]~~ (39) "Renderer" means any person engaged in the business of rendering animal
7609 carcasses, or parts or products of animal carcasses, except rendering conducted under
7610 inspection or exemption under this chapter.

7611 ~~[(39)]~~ (40) "Slaughter" means:

7612 (a) the killing of an animal in a humane manner including skinning or dressing; or

7613 (b) the process of performing any of the specified acts in preparing an animal for
7614 human consumption.

7615 ~~[(40)]~~ (41) "Wild game" means an animal, the products of which are food that is not
7616 classified as a domesticated food animal, captive game animal, or captive game bird, including
7617 the following when not domesticated:

- 7618 (a) deer;
7619 (b) elk;
7620 (c) antelope;
7621 (d) moose;
7622 (e) bison;
7623 (f) bear;
7624 (g) rabbit;
7625 (h) squirrel;
7626 (i) raccoon; and
7627 (j) birds.

7628 Section 321. Section **4-32-106**, which is renumbered from Section 4-32-4 is
7629 renumbered and amended to read:

7630 ~~[4-32-4].~~ **4-32-106. Meat establishment license -- Slaughtering livestock**
7631 **except in licensed meat establishment prohibited -- Exceptions -- Violation a**
7632 **misdemeanor.**

7633 (1) A person may not, except in a licensed meat establishment, slaughter animals for
7634 human consumption or assist other persons in the slaughter or processing of animals except as
7635 otherwise provided in Subsection (2), (3), or (4).

7636 (2) A person who raises an animal or an employee of that person may slaughter an
7637 animal without a farm custom slaughter license if:

7638 (a) slaughtering or processing animals is not prohibited by local ordinance;

7639 (b) any hide, viscera, blood, or other tissue is disposed of by removal to a rendering
7640 facility[;] or landfill[;] or by burial, as allowed by law;

7641 (c) the meat or poultry product derived from the slaughtered animal is consumed
7642 exclusively by the person or the person's immediate family, regular employees of the person, or
7643 nonpaying guests; and

7644 (d) the meat or poultry product is marked "Not For Sale."

7645 (3) Farm custom slaughter may be performed by a person who holds a valid farm

7646 custom slaughter license.

7647 (4) A retail establishment that processes meat or poultry products primarily for sale to
7648 individual consumers at the retail establishment is exempt from provisions requiring licensing
7649 of a meat establishment if:

7650 (a) the retail establishment is not engaged in slaughter operations;

7651 (b) the retail establishment sells the processed meat and poultry products only to
7652 individual consumers at the retail establishment[;] or to restaurants or institutions for use in
7653 meals served at those restaurants or institutions;

7654 (c) the retail establishment's sales of processed meat and poultry products to restaurants
7655 or institutions do not exceed the federal adjusted dollar limitation, or 25% by dollar volume of
7656 all meat sales from the retail establishment, whichever is less;

7657 (d) the retail establishment receives meat only from a meat establishment licensed
7658 under this chapter or inspected by the United States Department of Agriculture under 21 U.S.C.
7659 [Sections] Secs. 451 to 695;

7660 (e) the operator of the retail establishment does not sell[;] to any person other than an
7661 individual consumer[;] any meat or poultry product that is cured, smoked, seasoned, canned, or
7662 cooked at the retail establishment;

7663 (f) the retail establishment does not sell any meat or poultry product that is cured,
7664 smoked, seasoned, canned, or cooked at the retail establishment at a location other than the
7665 retail establishment; and

7666 (g) the operator of the retail establishment does not sell[;] to any person other than an
7667 individual consumer[;] any meat product made by combining meat from different animal
7668 species at the retail establishment.

7669 (5) Any person who violates this section, except as otherwise provided in Subsection
7670 (6), is guilty of a class C misdemeanor.

7671 (6) Any person who offers for sale or sells any uninspected meat or poultry product is
7672 guilty of a class B misdemeanor.

7673 Section 322. Section **4-32-107**, which is renumbered from Section 4-32-5 is

7674 renumbered and amended to read:

7675 ~~[4-32-5]~~. **4-32-107. Meat establishment and farm custom slaughter licenses --**
7676 **Application -- Fees -- Expiration -- Renewal.**

7677 (1) A person may not operate a meat establishment in the state without a meat
7678 establishment license issued by the department.

7679 (2) (a) Application for a license to operate a meat establishment shall be made to the
7680 department upon a form prescribed and furnished by the department.

7681 (b) Upon receipt of a proper application, compliance with all applicable rules, and the
7682 payment of an annual license fee determined by the department according to Subsection ~~[4-2-2]~~
7683 [4-2-103](#)(2), the commissioner, if satisfied that the public convenience and necessity will be
7684 served, shall issue a license allowing the applicant to operate a meat establishment through
7685 December 31 of the year in which the license is issued, subject to suspension or revocation for
7686 cause.

7687 (c) A meat establishment license is annually renewable on or before December 31 of
7688 each year, upon the payment of an annual license renewal fee in an amount determined by the
7689 department according to Subsection ~~[4-2-2]~~ [4-2-103](#)(2).

7690 (3) (a) Application for a farm custom slaughter license to engage in the business of
7691 slaughtering livestock shall be made to the department on a form prescribed and furnished by
7692 the department.

7693 (b) Upon receipt of a proper application, compliance with all applicable rules, and
7694 payment of a license fee in an amount determined by the department according to Subsection
7695 ~~[4-2-2]~~ [4-2-103](#)(2), the commissioner shall issue a license allowing the applicant to engage in
7696 farm custom slaughtering.

7697 (c) A farm custom slaughter license is annually renewable on or before December 31 of
7698 each year, upon the payment of an annual renewal license fee in an amount determined by the
7699 department according to Subsection ~~[4-2-2]~~ [4-2-103](#)(2).

7700 Section 323. Section **4-32-108**, which is renumbered from Section 4-32-6 is
7701 renumbered and amended to read:

7702 ~~[4-32-6].~~ **4-32-108. Duties of person who holds a farm custom slaughter**
7703 **license.**

7704 Each person who holds a farm custom slaughter license shall:

7705 (1) keep accurate records of each animal slaughtered, including:

7706 (a) the name, address, and telephone number of each person for whom the animal is
7707 slaughtered[;];

7708 (b) a full description of each animal slaughtered including age, brands, marks, or other
7709 identifying marks, proof of ownership, and the destination of the carcass for processing[;]; and

7710 (c) the date of slaughter;

7711 (2) require that each animal presented for slaughter bear a farm custom slaughter NOT
7712 FOR SALE tag;

7713 (3) render the animal to be slaughtered insensible to pain by captive bolt, gunshot,
7714 electric shock, or other humane means before it is shackled, hoisted, thrown, cast, or cut; and

7715 (4) stamp and tag the carcass of any slaughtered animal "Not For Sale."

7716 Section 324. Section **4-32-109**, which is renumbered from Section 4-32-7 is
7717 renumbered and amended to read:

7718 ~~[4-32-7].~~ **4-32-109. Mandatory functions, powers, and duties of department**
7719 **prescribed.**

7720 (1) The department shall make rules pursuant to Title 63G, Chapter 3, Utah
7721 Administrative Rulemaking Act, concerning the following functions, powers, and duties, in
7722 addition to those specified in Chapter 1, Short Title and General Provisions, for the
7723 administration and enforcement of this chapter[;].

7724 ~~[(1)]~~ (2) The department shall require antemortem and postmortem inspections,
7725 quarantine, segregation, and reinspections by inspectors appointed for those purposes with
7726 respect to the slaughter of animals and the preparation of meat and poultry products at official
7727 establishments, except as provided in Subsection ~~[4-32-8]~~ 4-32-110(13).

7728 ~~[(2)]~~ (3) The department shall require that:

7729 (a) animals be identified for inspection purposes;

7730 (b) meat or poultry products, or their containers be marked or labeled as:

7731 (i) "Utah Inspected and Passed" if, upon inspection, the products are found to be
7732 unadulterated; and

7733 (ii) "Utah Inspected and Condemned" if, upon inspection, the products are found to be
7734 adulterated; and

7735 (c) condemned animal carcasses or products, which otherwise would be used for
7736 human consumption, be destroyed under the supervision of an inspector.

7737 ~~[(3)]~~ (4) The department shall prohibit or limit meat products, poultry products, or
7738 other materials not prepared under inspection procedures provided in this chapter, from being
7739 brought into official establishments.

7740 ~~[(4)]~~ (5) The department shall require that labels and containers for meat and poultry
7741 products:

7742 (a) bear all information required by Section ~~[4-32-13]~~ [4-23-115](#) if the product leaves
7743 the official establishment; and

7744 (b) be approved before sale or transportation.

7745 ~~[(5)]~~ (6) For official establishments required to be inspected under Subsection ~~[(+)]~~ (2),
7746 the department shall:

7747 (a) prescribe sanitary standards;

7748 (b) require sanitary inspections; and

7749 (c) refuse to provide inspection service if the sanitary conditions allow adulteration of
7750 any meat or poultry product.

7751 ~~[(6)]~~ (7) (a) The department shall require that any person engaged in a business referred
7752 to in Subsection ~~[(6)]~~ (7)(b):

7753 (i) keep accurate records disclosing all pertinent business transactions;

7754 (ii) allow inspection of the business premises at reasonable times and examination of
7755 inventory, records, and facilities; and

7756 (iii) allow samples to be taken.

7757 (b) Subsection ~~[(6)]~~ (7)(a) applies to any person who:

7758 (i) slaughters animals;
7759 (ii) prepares, freezes, packages, labels, buys, sells, transports, or stores any meat or
7760 poultry products for human or animal consumption;
7761 (iii) renders animals; or
7762 (iv) buys, sells, or transports any dead, dying, disabled, or diseased animals, or parts of
7763 their carcasses that died by a method other than slaughter.

7764 ~~[(7)]~~ (8) (a) The department shall:

7765 (i) adopt by reference rules ~~[and regulations]~~ under federal acts with changes that the
7766 commissioner considers appropriate to make the rules ~~[and regulations]~~ applicable to
7767 operations and transactions subject to this chapter; and

7768 (ii) ~~[promulgate]~~ make any other rules considered necessary for the efficient execution
7769 of the provisions of this chapter, including rules of practice providing an opportunity for
7770 hearing in connection with the issuance of orders under Subsection ~~[(5)]~~ (6) or under
7771 Subsection ~~[4-32-8]~~ 4-32-110(1), (2), or (3) and prescribing procedures for proceedings in
7772 these cases.

7773 (b) These procedures do not preclude requiring that a label or container be withheld
7774 from use, or inspection be refused under Subsections ~~[(1) and (5)]~~ (2) and (6), or Subsection
7775 ~~[4-32-8]~~ 4-32-110(3), pending issuance of a final order in the proceeding.

7776 ~~[(8)]~~ (9) (a) To prevent the inhumane slaughtering of animals, inspectors shall be
7777 appointed to examine and inspect methods of handling and slaughtering animals.

7778 (b) Inspection of slaughtering establishments may be refused or temporarily suspended
7779 if animals have been slaughtered or handled by any method not in accordance with the Humane
7780 Methods of Slaughter Act of 1978, Pub. L. No. 95-445.

7781 (c) Before slaughtering an animal in accordance with requirements of Kosher, Halal, or
7782 a religious faith's requirements that discourage stunning of the animal, the person slaughtering
7783 the animal shall file a written request with the commissioner.

7784 ~~[(9)]~~ (10) (a) The department shall require an animal showing symptoms of disease
7785 during antemortem inspection, performed by an inspector appointed for that purpose, to be set

7786 apart and slaughtered separately from other livestock and poultry.

7787 (b) When slaughtered, the carcasses of livestock and poultry are subject to careful
7788 examination and inspection in accordance with rules prescribed by the commissioner.

7789 Section 325. Section **4-32-110**, which is renumbered from Section 4-32-8 is
7790 renumbered and amended to read:

7791 **[~~4-32-8~~]. 4-32-110. Discretionary functions, powers, and duties of**
7792 **commissioner prescribed.**

7793 The commissioner may:

7794 (1) remove inspectors from any official establishment that fails to:

7795 (a) destroy condemned products pursuant to Subsection [~~4-32-7(2)~~] 4-32-109(3); or

7796 (b) comply with any other of this chapter's requirements;

7797 (2) refuse to provide inspection for any official establishment for any cause specified in
7798 Section 401 of the Federal Meat Inspection Act or Section 18 of the federal Poultry Products
7799 Inspection Act;

7800 (3) withhold the use of labels and containers if the labeling is false or misleading or the
7801 containers are misleading in size or form;

7802 (4) prescribe the type size and style to be used for labeling:

7803 (a) information;

7804 (b) definitions; and

7805 (c) standards of identity, composition, or container fill;

7806 (5) prescribe conditions for the storage and handling of meat and poultry products by
7807 any person who sells, freezes, stores, or transports these products to prevent them from
7808 becoming adulterated or misbranded;

7809 (6) require that equines be slaughtered and prepared in official establishments separate
7810 from those where other animals are slaughtered or their products are prepared;

7811 (7) require that the following people register the name and address of each place of
7812 business and all trade names:

7813 (a) broker;

- 7814 (b) renderer;
- 7815 (c) animal food manufacturer;
- 7816 (d) wholesaler;
- 7817 (e) public warehouseman of meat or poultry products; or
- 7818 (f) anyone engaged in the business of buying, selling, or transporting any:
- 7819 (i) dead, dying, disabled, or diseased animals; or
- 7820 (ii) parts of animal carcasses that died other than by slaughter;
- 7821 (8) make inspections of official establishments at night, as well as during the day, if
- 7822 animals or meat and poultry products are slaughtered and prepared for commercial purposes in
- 7823 those establishments at night;
- 7824 (9) divide the state into inspection districts and designate killing days and partial
- 7825 killing days for each official establishment;
- 7826 (10) cooperate with the Secretary of Agriculture of the United States in the
- 7827 administration of this chapter and accept federal assistance and use funds appropriated for the
- 7828 administration of this chapter to pay the state's proportionate share of the cooperative program;
- 7829 (11) recommend the names of officials and employees of the department to the
- 7830 Secretary of Agriculture of the United States for appointment to the advisory committees
- 7831 provided for in the federal acts;
- 7832 (12) serve as the representative of the governor for consultation with the Secretary of
- 7833 Agriculture under paragraph (c) of Section 301 of the Federal Meat Inspection Act and Section
- 7834 5(c) of the federal Poultry Products Inspection Act, unless the governor selects another
- 7835 representative; and
- 7836 (13) exempt from inspection:
- 7837 (a) the slaughter and processing of an animal by any person who raises an animal for
- 7838 the person's own use, members of the person's household, employees, or nonpaying guests;
- 7839 (b) custom exempt slaughter and processing operations;
- 7840 (c) farm custom slaughter performed by a licensee; and
- 7841 (d) any other operation, if the exemption:

(i) furthers the purposes of this chapter; and

(ii) conforms to federal acts.

Section 326. Section **4-32-111**, which is renumbered from Section 4-32-9 is renumbered and amended to read:

[4-32-9]. 4-32-111. Additional powers of commissioner.

(1) The commissioner may:

(a) gather and compile information concerning, and~~[, to]~~ investigate the organization, business, conduct, practices, and management of, any person subject to this chapter;

(b) require any person subject to this chapter to file information regarding the person's business or operation as the commissioner requires;

(c) for the purpose of this chapter, at all reasonable times have access to, for the purpose of examination, and the right to copy, any documentary evidence~~[,]~~ of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation;

(d) require the attendance of witnesses and the production of documentary evidence at any place designated for hearing; ~~[in case of disobedience to a subpoena, the commissioner may]~~

(e) invoke the aid of any court of competent jurisdiction to compel the attendance of witnesses and the production of documentary evidence, in the case of disobedience to a subpoena; and

~~[(e)]~~ (f) order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of the proceeding or investigation~~[, the depositions may be taken before any person with power to administer oaths designated by the commissioner, and the testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent].~~

(2) In the event a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of

7870 Immunity.

7871 (3) (a) (i) Any person who without just cause neglects or refuses to attend and testify or
7872 to answer any lawful inquiry, or to produce documentary evidence, if in [his] the person's
7873 power to do so, in obedience to the subpoena or lawful requirement of the commissioner is
7874 guilty of a class A misdemeanor. [~~Any~~]

7875 (ii) A fine imposed for a violation of Subsection (3)(a)(i) may not be less than \$500.

7876 [~~(b) Any person that~~]

7877 (b) (i) A person is guilty of a class A misdemeanor if the person:

7878 (A) willfully makes, or causes to be made, any false entry or statement of fact in any
7879 report required to be made under this chapter~~[, or that]~~;

7880 (B) willfully makes, or causes to be made, any false entry in any account, record, or
7881 memorandum kept by any person subject to this chapter~~[, or that]~~;

7882 (C) neglects or fails to make, or to cause to be made, full, true, and correct entries in
7883 those accounts, records, or memoranda, of all facts and transactions appertaining to the
7884 business of that person; or [~~that~~]

7885 (D) willfully removes out of the jurisdiction of this state, or willfully mutilates, alters,
7886 or by any other means falsifies any documentary evidence of any person subject to this chapter
7887 or that willfully refuses to submit to the commissioner or to any of the commissioner's
7888 authorized agents, for the purpose of inspection and making copies, any documentary evidence
7889 of any person subject to this chapter within the person's possession or control [~~is guilty of a~~
7890 ~~class A misdemeanor. Any~~].

7891 (ii) A fine imposed for a violation of Subsection (3)(b)(i) may not be less than \$500.

7892 (c) (i) If any person required by this chapter to file any annual or special report fails to
7893 do so within the time fixed by the commissioner, and the failure continues for 30 days after
7894 notice of default, the person shall forfeit to the state the sum of \$10 for each day of the
7895 continuance of the failure, which forfeiture is payable into the treasury of this state, and is
7896 recoverable in a civil suit in the name of the state brought in the district where the person has a
7897 principal office or in any district in which he does business.

(ii) The various county attorneys, under the direction of the attorney general of this state, shall prosecute for the recovery of the forfeitures.

(iii) The costs and expenses of prosecution shall be paid out of the appropriation for the expenses of the courts of this state.

Section 327. Section **4-32-112**, which is renumbered from Section 4-32-10 is renumbered and amended to read:

~~4-32-10~~. 4-32-112. Judicial review of orders enforcing chapter.

(1) Any party aggrieved by an order issued under Subsection [~~4-32-7(3)~~] 4-32-109(4) or under Subsection [~~4-32-8~~] 4-32-110(1), (2), or (3) may obtain judicial review.

(2) The district courts have jurisdiction to enforce this chapter, and to prevent and restrain violations of this chapter, and have jurisdiction in all other kinds of cases arising under this chapter.

(3) All proceedings for the enforcement of this chapter, or to restrain violations of this chapter, shall be by and in the name of this state.

Section 328. Section **4-32-113**, which is renumbered from Section 4-32-11 is renumbered and amended to read:

~~4-32-11~~. 4-32-113. Preparation and slaughter of livestock, poultry, or livestock and poultry products -- Adulterated or misbranded products -- Violation of rule or order.

(1) An animal or meat or poultry product that may be used for human consumption shall not be:

(a) slaughtered or prepared unless it is done in compliance with this chapter's requirements;

(b) sold, transported, offered for sale or transportation, or received for transportation, if it is adulterated or misbranded, unless it has been inspected and approved; or

(c) subjected to any act while being transported or held for sale after transportation resulting in one of the products becoming adulterated or being misbranded.

(2) A person may not violate any rule or order of the commissioner under Subsection

7926 [~~4-32-7(3) or (6)~~] 4-32-109(4) or (7), or Subsection [~~4-32-8~~] 4-32-110(3), (5), or (7).

7927 Section 329. Section ~~4-32-114~~, which is renumbered from Section 4-32-12 is
7928 renumbered and amended to read:

7929 ~~[4-32-12]~~. **4-32-114. Unauthorized use or possession of official devices, labels,**
7930 **marks, or certificates -- False statements, misrepresentations, and trade secrets.**

7931 (1) A person may not cast, print, lithograph, or make any device or label containing or
7932 bearing any official mark or simulation of a mark, or any form or simulation of an official
7933 certificate, unless authorized by the commissioner.

7934 (2) A person may not:

7935 (a) forge any official device, mark, or certificate;

7936 (b) use any official device, mark, or certificate without the authorization of the
7937 commissioner;

7938 (c) alter, detach, deface, or destroy any official device, mark, or certificate;

7939 (d) fail to use, detach, deface, or destroy any official device, mark, or certificate as
7940 required by this chapter;

7941 (e) knowingly possess any of the following, if it bears any unauthorized, counterfeit,
7942 simulated, forged, or altered official mark:

7943 (i) an official device;

7944 (ii) a counterfeit, simulated, forged, or altered official certificate;

7945 (iii) a device;

7946 (iv) a label;

7947 (v) a carcass of any animal, including poultry; or

7948 (vi) a part or product of any animal, including poultry;

7949 (f) knowingly make any false statement in any shipper's certificate, or nonofficial or
7950 official certificate;

7951 (g) knowingly represent that any meat or poultry product has been inspected and
7952 approved, or exempted, under this chapter when, in fact, it has not; or

7953 (h) use to the person's advantage or reveal any information acquired under the authority

of this chapter relating to any matter entitled to protection as a trade secret unless the information is:

- (i) revealed to an authorized government representative; or
- (ii) ordered by a court in a judicial proceeding.

Section 330. Section **4-32-115**, which is renumbered from Section 4-32-13 is renumbered and amended to read:

[~~4-32-13~~]. 4-32-115. Meat or poultry products to be marked or labeled -- Meat or poultry products not intended for human food -- Dead, dying, disabled, or diseased animals.

(1) A person may not sell, transport, offer for sale or transportation, or receive for transportation, any animal carcasses or parts of such carcasses, or the meat or meat products, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by rules adopted by the department to show the kinds of animals from which they were derived.

(2) A person may not buy, sell, transport, or offer for sale or transportation, or receive for transportation any meat or poultry products that are not intended for human food unless they are denatured or otherwise identified as required by the rules of the department or are naturally inedible by humans.

(3) A person engaged in the business of buying, selling, or transporting dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, may not buy, sell, transport, offer for sale or transportation, or receive for transportation the animals or parts of carcasses unless the transaction or transportation is made in accordance with rules adopted by the department to assure that the animals or parts of carcasses will be prevented from being used for human food.

Section 331. Section **4-32-116**, which is renumbered from Section 4-32-14 is renumbered and amended to read:

[~~4-32-14~~]. 4-32-116. Attempt to bribe state officer or employee -- Acceptance of bribe -- Interference with official duties -- Penalties.

- (1) (a) [~~Any~~] A person who gives, pays, or offers, directly or indirectly, any money or

other thing of value, to any officer or employee of this state who is authorized to perform any duties under this chapter, with the intent to influence the officer or employee in the discharge of ~~[his]~~ the officer's or employee's duty, is guilty of a felony of the third degree, and upon conviction, shall be punished by a fine of not more than \$5,000 or imprisonment of not more than five years, or both.

(b) An officer or employee of this state authorized to perform duties under this chapter who accepts money, a gift, or other thing of value from any person given with intent to influence ~~[his]~~ the officer's or employee's official action, is guilty of a felony of the third degree and shall, upon conviction, be discharged from office, and fined in an amount of not more than \$5,000, or imprisoned for not more than five years, or both.

(2) (a) ~~[Any]~~ A person who assaults, obstructs, impedes, intimidates, or interferes with any person engaged in the performance of official duties under this chapter, with or without a dangerous or deadly weapon, is guilty of a felony of the third degree and upon conviction shall be punished by a fine of not more than \$5,000, or by imprisonment of not more than five years, or both.

(b) ~~[Any]~~ A person who, in the commission of any violation of Subsection (2) of this section, uses a dangerous weapon as defined in Section 76-1-601, is guilty of a felony of the second degree and upon conviction shall be punished by a fine of not more than \$10,000, or by imprisonment for a period of not more than 10 years, or both.

(c) ~~[Any]~~ A person who kills another person engaged in the performance of official duties under this chapter shall be punished as provided in Section 76-5-202.

Section 332. Section ~~4-32-117~~, which is renumbered from Section 4-32-15 is renumbered and amended to read:

~~[4-32-15].~~ **4-32-117. Inspection of products placed in containers -- Supervision of inspector -- Access to establishment.**

(1) ~~[No]~~ An inspection of products placed in any container at any official establishment ~~[shall be deemed]~~ may not be considered to be complete until the products are sealed or enclosed under the supervision of an inspector.

(2) For purposes of any inspection of products required by this chapter, inspectors authorized by the department shall have access at all times to every part of every establishment required to have inspection whether the establishment is operated or not.

Section 333. Section **4-32-118**, which is renumbered from Section 4-32-16 is renumbered and amended to read:

~~[4-32-16].~~ 4-32-118. Detention of animals or meat or poultry products -- Removal of official marks.

(1) Whenever any meat or poultry product or any product exempted from the definition of a meat or poultry product, or any dead, dying, disabled, or diseased animal, is found by any authorized representative of the commissioner, and there is reason to believe that it is adulterated or misbranded and is capable of use as human food, or that it has not been inspected and passed, or that it has been or is intended to be distributed in violation of this chapter, it may be detained by the representative pending action under Section ~~[4-32-17]~~ 4-32-119, and may not be moved by any person from the place at which it is located when so detained, until released by such representative.

(2) All official marks may be required by the representative described in Subsection (1) to be removed from a product or animal described in Subsection (1) before the product is released.

Section 334. Section **4-32-119**, which is renumbered from Section 4-32-17 is renumbered and amended to read:

~~[4-32-17].~~ 4-32-119. Quarantine authorized -- Conditions giving rise to quarantine.

(1) ~~[Any]~~ A meat or poultry product, or ~~[any]~~ a dead, dying, disabled, or diseased animal that is being transported or is held for sale in this state, ~~[and that]~~ shall be seized and quarantined if it:

(a) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter;

(b) is capable of use as human food and is adulterated or misbranded; or

(c) in any other way violates this chapter[; ~~shall be seized and quarantined~~].

(2) Quarantined animals or products shall be condemned and destroyed, except that the owner of the quarantined animals or products may request a hearing within five days, and the commissioner shall, within five days after the request, conduct a hearing to decide whether the quarantined animals or products shall be condemned.

(3) The commissioner's decision under Subsection (2) is final, and all condemned animals or products shall ~~[forthwith]~~ immediately be destroyed or denatured in the presence of the commissioner or an inspector.

(4) This section does not limit the authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

Section 335. Section ~~4-32-120~~, which is renumbered from Section 4-32-18 is renumbered and amended to read:

~~[4-32-18].~~ **4-32-120. Rules for the construction and operation of meat establishments authorized.**

(1) For the purposes of administering this chapter and qualifying meat establishments for licenses, the department may adopt sanitary inspection rules and regulations, ~~[and all other necessary rules,]~~ including those pertaining to the construction, equipment, and facilities of meat establishments.

(2) The rules shall conform with the regulations ~~[promulgated]~~ made under the federal acts.

Section 336. Section ~~4-32-121~~, which is renumbered from Section 4-32-20 is renumbered and amended to read:

~~[4-32-20].~~ **4-32-121. Suspension or revocation -- Grounds.**

The department may upon its own motion, and shall upon the verified complaint in writing of any person, investigate or cause to be investigated the operation of any meat establishment, and may suspend or revoke the license of the meat establishment upon any of the following grounds:

(1) the license was obtained by any false or misleading statement;

(2) for slaughtering any animal without an antemortem and a postmortem inspection, or for processing any meat or poultry or products of ~~[either]~~ meat or poultry that have not been inspected and passed, ~~[f]or exempted[]~~, and so identified;

(3) the advertising or publicizing of any false or misleading statements that pertain to the slaughtering, processing, or distribution of animals or meat or poultry products;

(4) the failure to maintain refrigeration~~;~~ or sanitation, or dispose of waste as required by rules of the department; or

(5) the failure to comply with rules of the department pertaining to the disposal of carcasses or parts of carcasses that have been determined to be unfit for human consumption.

Section 337. Section **4-32-122**, which is renumbered from Section 4-32-21 is renumbered and amended to read:

~~[4-32-21].~~ 4-32-122. Denial of application for farm custom slaughter license -- Venue for judicial review.

(1) ~~[Any]~~ An applicant whose application for a license to operate a meat establishment or to obtain a farm custom slaughter license is denied may file a request for agency action with the department, requesting a hearing on the issue of denial.

(2) (a) ~~[Any]~~ A person who is aggrieved by an order issued under this section may obtain judicial review.

(b) Venue for judicial review of an informal adjudicative proceeding is in the district court in the county in which the alleged unlawful activity occurred or, in the case of an order denying a license application, in the county where the applicant resides.

(3) The attorney general's office shall represent the department in ~~[any]~~ an original action or ~~[any]~~ appeal under this section.

Section 338. Section **4-32-123**, which is renumbered from Section 4-32-22 is renumbered and amended to read:

~~[4-32-22].~~ 4-32-123. Animals slaughtered or the meat and poultry products not intended for human use -- No inspection -- Products to be denatured or otherwise identified.

Inspection may not be provided under this chapter at any establishment for the slaughter of animals or the preparation of any meat or poultry products that are not intended for use as human food, but the products shall be denatured or otherwise identified as prescribed by rules of the department before ~~[their offer]~~ the meat and poultry products are offered for sale or transportation.

Section 339. Section **4-33-101**, which is renumbered from Section 4-33-1 is renumbered and amended to read:

CHAPTER 33. MOTOR FUEL INSPECTION ACT

~~[4-33-1].~~ 4-33-101. Title.

This chapter shall be known as the "Motor Fuel Inspection Act."

Section 340. Section **4-33-102**, which is renumbered from Section 4-33-2 is renumbered and amended to read:

~~[4-33-2].~~ 4-33-102. Purpose of chapter.

It is the purpose of this chapter to promote the safety and welfare of users of motor fuels in this state and also to promote the orderly marketing of motor fuels.

Section 341. Section **4-33-103**, which is renumbered from Section 4-33-3 is renumbered and amended to read:

~~[4-33-3].~~ 4-33-103. Definition.

As used in this chapter, "motor fuel" means any combustible ~~[gas, liquid, matter, or substance which is used in an internal combustion engine for the generation of power]~~ liquid or vapor used to power a motor vehicle or a motor vehicle engine.

Section 342. Section **4-33-104**, which is renumbered from Section 4-33-4 is renumbered and amended to read:

~~[4-33-4].~~ 4-33-104. Administrative and enforcement powers of department.

The department shall administer and enforce this chapter and may:

(1) make and enforce such rules, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[as it considers]~~ necessary for the effective administration and enforcement of this chapter;

- 8122 (2) acquire and test motor fuel samples to determine compliance with this chapter;
8123 (3) maintain and staff a laboratory to test motor fuel samples;
8124 (4) enter public or private premises during normal working hours to enforce this
8125 chapter;
8126 (5) stop and detain any commercial vehicle transporting motor fuel to inspect ~~[its]~~ the
8127 contents and applicable documents or to acquire motor fuel samples; and
8128 (6) require that records applicable to this chapter be available for examination and
8129 review upon request by the department.

8130 Section 343. Section **4-33-105**, which is renumbered from Section 4-33-5 is
8131 renumbered and amended to read:

8132 ~~[4-33-5].~~ **4-33-105. Prohibitions.**

8133 It is unlawful for any person in this state to:

- 8134 (1) ~~[to]~~ offer for sale, sell, or deliver any motor fuel which fails to meet the standards
8135 prescribed by the department;
8136 (2) ~~[to]~~ advertise or display the price of motor fuel without advertising or displaying
8137 the grade of the motor fuel and the type of service ~~[when both self service and full service are~~
8138 ~~offered]~~; or
8139 (3) ~~[to]~~ haul or transport motor fuel for the purpose of sale or delivery in this state
8140 without an invoice or bill of lading stating the name and address of the owner or person
8141 consigning the fuel for transport, the Utah grade of the motor fuel, and the number of gallons
8142 consigned.

8143 Section 344. Section **4-33-106**, which is renumbered from Section 4-33-6 is
8144 renumbered and amended to read:

8145 ~~[4-33-6].~~ **4-33-106. Octane rating determination and posting.**

8146 The determination of octane ratings and the posting of the octane on dispensing devices
8147 shall be in accord with Federal Trade Commission requirements described in 16 C.F.R. Part
8148 306, Automotive Fuel Ratings, Certification, and Posting.

8149 Section 345. Section **4-33-107**, which is renumbered from Section 4-33-7 is

8150 renumbered and amended to read:

8151 ~~[4-33-7].~~ **4-33-107. Inspection, sampling, testing, and analysis of fuels by**
8152 **department.**

8153 (1) The department shall periodically sample, inspect, analyze and test motor fuels
8154 dispensed in this state and may enter any public premises or vehicle for the purpose of
8155 determining compliance with this chapter.

8156 (2) (a) Methods of sampling, testing, analyzing, and designating motor fuels shall
8157 [accord with those] conform with methods specified and published by the American Society for
8158 Testing and Materials.

8159 (b) [The department shall use] Unless modified by the department by rule, the latest
8160 published standards of the American Society for Testing and Materials apply.

8161 (3) Upon request, the department shall pay the posted price for samples and the person
8162 from whom the sample is taken shall give a signed receipt evidencing payment.

8163 (4) Tests and analyses conducted by the department shall be prima facie evidence of
8164 the facts shown by such tests in any court proceeding.

8165 Section 346. Section **4-33-108**, which is renumbered from Section 4-33-8 is
8166 renumbered and amended to read:

8167 ~~[4-33-8].~~ **4-33-108. Locking and sealing of pumps in violation of chapter --**
8168 **Posting notice -- Removal of sealed fuel -- Resealing.**

8169 (1) (a) The department may lock and seal any pump or other dispensing device [which]
8170 that is in violation of this chapter.

8171 (b) If [such action is taken] the department locks and seals a pump or other dispensing
8172 device pursuant to Subsection (1)(a), the department shall post a notice in a conspicuous place
8173 on the pump or other dispensing device stating that the device has been sealed by the
8174 department and [that it is unlawful] to break or destroy the seal or to mutilate or alter the notice
8175 is unlawful.

8176 (2) (a) Any person who is aggrieved by the action of the department may advise the
8177 department that such person intends to remove the balance of the motor fuel from the tank or

8178 other container which contains the sealed motor fuel.

8179 (b) The department, within two working days after the receipt of such notice, shall
8180 break the seal or lock for the container to be emptied.

8181 (3) (a) If the aggrieved party fails to remove the sealed motor fuel within 24 hours after
8182 the department breaks the seal, the department may reseal the dispensing device.

8183 (b) The seal may not be broken nor the contents of any container removed, except after
8184 a subsequent written notice of intent to remove is filed with the department and upon the
8185 payment of a service charge determined by the department pursuant to Subsection [~~4-2-2~~]
8186 4-2-103(2).

8187 (c) A notice of intent to remove may be filed on paper or electronically.

8188 Section 347. Section **4-33-109**, which is renumbered from Section 4-33-9 is
8189 renumbered and amended to read:

8190 ~~[4-33-9].~~ **4-33-109. Warrant to enter premises for inspection or sampling.**

8191 If admittance is refused to the department either for sampling or for inspection of
8192 transport invoices or bills of lading, the department may obtain an ex parte warrant from the
8193 nearest court of competent jurisdiction to allow entry upon the premises for the purpose of
8194 inspection or taking samples or to examine transport documents.

8195 Section 348. Section **4-33-110**, which is renumbered from Section 4-33-10 is
8196 renumbered and amended to read:

8197 ~~[4-33-10].~~ **4-33-110. Interstate commerce -- Chapter inapplicable to fuel in**
8198 **transit through state.**

8199 ~~[This]~~ (1) Except as provided in Subsection (2), this chapter is inapplicable to motor
8200 fuel being transported through this state in interstate commerce~~[- provided, that none of the~~
8201 ~~motor fuel is consigned or destined for delivery in the state].~~

8202 (2) This chapter applies to motor fuel that is consigned or destined for delivery in the
8203 state.

8204 Section 349. Section **4-34-101** is enacted to read:

8205 **CHAPTER 34. CHARITABLE DONATION**

8206 **4-34-101. Title.**

8207 This chapter is known as "Charitable Donation."

8208 Section 350. Section **4-34-102**, which is renumbered from Section 4-34-1 is

8209 renumbered and amended to read:

8210 ~~[4-34-1].~~ **4-34-102. Definitions.**

8211 For purposes of this chapter:

8212 (1) "Agricultural product" means any fowl, animal, fish, vegetable, or other product or
8213 article, fresh or processed, which is customary food, or which is proper food for human
8214 consumption.

8215 ~~[(3)]~~ (2) "Gleaner" means a person who harvests, for free distribution, an agricultural
8216 crop that has been donated by the owner.

8217 ~~[(2)]~~ (3) "Nonprofit charitable organization" means any organization which was
8218 organized and is operating for charitable purposes and which meets the requirements of the
8219 Internal Revenue Service of the U.S. Department of Treasury that exempt the organization
8220 from income taxation under the provisions of the Internal Revenue Code.

8221 Section 351. Section **4-34-103**, which is renumbered from Section 4-34-2 is

8222 renumbered and amended to read:

8223 ~~[4-34-2].~~ **4-34-103. Donation to charitable organization authorized.**

8224 Any person engaged in the business of producing, processing, selling, or distributing
8225 any agricultural product may donate, free of charge, any such product which is in a fit condition
8226 for use as food for human consumption to a nonprofit charitable organization within the state
8227 of Utah.

8228 Section 352. Section **4-34-104**, which is renumbered from Section 4-34-3 is

8229 renumbered and amended to read:

8230 ~~[4-34-3].~~ **4-34-104. County surplus food collection and distribution system.**

8231 (1) To accomplish the purposes of Section ~~[4-34-2]~~ 4-34-103, any county may establish
8232 and publicize the availability of a surplus food collection and distribution system and may
8233 provide information to donee organizations concerning the availability of agricultural products

8234 and to donors concerning organizations that desire or need donated agricultural products.

8235 (2) Any nonprofit charitable organization needing agricultural products on a regular
8236 basis may be listed with the county for the purpose of receiving notice that the products are
8237 available.

8238 Section 353. Section **4-34-105**, which is renumbered from Section 4-34-4 is
8239 renumbered and amended to read:

8240 ~~[4-34-4]~~. **4-34-105. Inspection of donated food.**

8241 The county may provide for the inspection of donated agricultural products by the
8242 county health officer upon the request of the donee nonprofit charitable organization to
8243 determine whether the products are fit for human consumption.

8244 Section 354. Section **4-34-106**, which is renumbered from Section 4-34-5 is
8245 renumbered and amended to read:

8246 ~~[4-34-5]~~. **4-34-106. Limitation of liability of donor, charitable organization,**
8247 **and county.**

8248 Except in the event of an injury resulting from gross negligence, recklessness, or
8249 intentional conduct, neither a county nor an agency of a county nor a donor of an agricultural
8250 product participating in good faith in a food donation program, nor a nonprofit charitable
8251 organization receiving, accepting, gleaning, or distributing any agricultural product donated in
8252 good faith to it under this chapter shall be liable for damages in any civil action or subject to
8253 prosecution in any criminal proceeding for any injury that occurs as a result of any act or the
8254 omission of any act, including injury resulting from ingesting the donated agricultural product.

8255 Section 355. Section **4-34-107**, which is renumbered from Section 4-34-6 is
8256 renumbered and amended to read:

8257 ~~[4-34-6]~~. **4-34-107. Sale or use of donations by employee of public agency or**
8258 **charity prohibited.**

8259 An employee of a nonprofit charitable organization or of a public agency may not sell,
8260 offer for sale, use, or consume any agricultural product donated or distributed under this
8261 chapter.

8262 Section 356. Section **4-35-101**, which is renumbered from Section 4-35-1 is
8263 renumbered and amended to read:

8264 **CHAPTER 35. INSECT INFESTATION EMERGENCY CONTROL ACT**

8265 **~~[4-35-1].~~ 4-35-101. Title.**

8266 This chapter is known as the "Insect Infestation Emergency Control Act."

8267 Section 357. Section **4-35-102**, which is renumbered from Section 4-35-2 is
8268 renumbered and amended to read:

8269 **~~[4-35-2].~~ 4-35-102. Definitions.**

8270 As used in this chapter:

8271 (1) "Committee" means the Decision and Action Committee created by and established
8272 under this chapter.

8273 (2) "Department" means the Department of Agriculture and Food.

8274 (3) "Insect" means~~[, but is not limited to, grasshopper, range caterpillar, mormon~~
8275 ~~cricket, apple maggot, cherry fruit fly, plum curculio, and cereal leaf beetle]~~ any animal in the
8276 class insect that the commissioner determines to be a threat to agriculture in the state.

8277 Section 358. Section **4-35-103**, which is renumbered from Section 4-35-3 is
8278 renumbered and amended to read:

8279 **~~[4-35-3].~~ 4-35-103. Decision and Action Committee created -- Members --**
8280 **How appointed -- Duties of committee -- Per diem and expenses allowed.**

8281 (1) (a) There is created the Decision and Action Committee ~~[which]~~ that consists of not
8282 fewer than six members.

8283 (b) One member is the commissioner and one member is appointed to represent the
8284 department.

8285 (c) The remaining members of the committee are appointed by the commissioner on an
8286 ad hoc basis as necessary from persons directly affected by and involved in the current insect
8287 infestation emergency.

8288 (d) The commissioner, or the commissioner's designee, shall cast the deciding vote in
8289 the event of a tie.

8290 ~~[(d)]~~ (e) The committee is dissolved when the commissioner declares that the insect
8291 infestation emergency is over.

8292 (2) The committee shall:

8293 (a) establish a system of priorities for any insect infestation emergency; and

8294 (b) certify to the commissioner any area which requires the establishment of an insect
8295 control district in areas of infestation and in which a simple majority of the landowners and
8296 lessees whose total production exceeds 50% of the production in that area has agreed to pay
8297 proportionate shares of the costs of controlling the insects infesting the area.

8298 (3) A member may not receive compensation or benefits for the member's service, but
8299 may receive per diem and travel expenses in accordance with:

8300 (a) Section 63A-3-106;

8301 (b) Section 63A-3-107; and

8302 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
8303 63A-3-107.

8304 Section 359. Section ~~4-35-104~~, which is renumbered from Section 4-35-4 is
8305 renumbered and amended to read:

8306 ~~[4-35-4]~~. **4-35-104. Commissioner to declare emergency -- Powers of**
8307 **commissioner in emergency.**

8308 (1) (a) The commissioner, with the consent of the governor, may declare that an insect
8309 infestation emergency situation exists which jeopardizes property and resources, and designate
8310 the area or areas affected.

8311 (b) The area referred to in Subsection (1)(a) may include federal lands, after
8312 notification of the appropriate federal land manager.

8313 (2) The commissioner is authorized, subject to the requirements of Section ~~[4-35-5]~~
8314 4-35-105, to direct all emergency measures the commission considers necessary to alleviate the
8315 emergency condition.

8316 (3) The commissioner shall:

8317 (a) utilize equipment, supplies, facilities, personnel, and other available resources;

8318 (b) enter into contracts for the acquisition, rental, or hire of equipment, services,
8319 materials, and supplies;

8320 (c) accept assistance, services, and facilities offered by federal and local governmental
8321 units or private agencies; and

8322 (d) accept on behalf of the state the provisions and benefits of acts of Congress
8323 designated to provide assistance.

8324 Section 360. Section **4-35-105**, which is renumbered from Section 4-35-5 is
8325 renumbered and amended to read:

8326 ~~[4-35-5].~~ **4-35-105.** **Commissioner to act upon certification by committee --**
8327 **Deposit required.**

8328 (1) The commissioner initiates operations to control the insect infestation in the
8329 designated area or areas:

8330 (a) upon ~~[certification by the committee under Subsection 4-35-4(2)]~~ declaration of an
8331 infestation emergency, as described in Section 4-35-104; and

8332 (b) upon deposit of the owner's and lessee's projected proportionate share of the costs.

8333 (2) The commissioner and the members of the committee may suspend or terminate
8334 control operations upon a determination that the operations will not significantly reduce the
8335 insect population in the designated emergency area.

8336 Section 361. Section **4-35-106**, which is renumbered from Section 4-35-6 is
8337 renumbered and amended to read:

8338 ~~[4-35-6].~~ **4-35-106.** **4-35-6. Money deposited as dedicated credits --**
8339 **Balance nonlapsing -- Matching funds allowed.**

8340 (1) All money received by the state under this chapter is deposited by the Department
8341 of Agriculture and Food as dedicated credits for the purpose of insect control with the state.

8342 (2) The dedicated credits may be used as matching funds for:

8343 (a) participation in programs of the United States Department of Agriculture; and

8344 (b) in contracts with private property owners who own croplands contiguous to infested
8345 public rangelands.

8346 Section 362. Section **4-35-107**, which is renumbered from Section 4-35-7 is
8347 renumbered and amended to read:

8348 **[4-35-7]. 4-35-107. Notice to owner or occupant -- Corrective action required**
8349 **-- Directive issued by department -- Costs -- Owner or occupant may prohibit treatment.**

8350 (1) The department or an authorized agent of the department shall notify the owner or
8351 occupant of the problem and the available alternatives to remedy the problem. The owner or
8352 occupant shall take corrective action within 30 days.

8353 (2) (a) If the owner or occupant fails to take corrective action under Subsection (1), the
8354 department may issue a directive for corrective action which shall be taken within 15 days.

8355 (b) If the owner or occupant fails to act within the required time, the department shall
8356 take the necessary action.

8357 (c) The department may recover costs incurred for controlling an insect infestation
8358 emergency from the owner or occupant of the property on whose property corrective action was
8359 taken.

8360 (3) (a) Owners or occupants of property may prohibit [spraying] treatment by
8361 presenting an affidavit from [their] the owner's or occupant's attending physician to the
8362 department which states that the [spraying] treatment as planned is a danger to [their] the
8363 owner's or occupant's health.

8364 (b) The department shall provide the owner or occupant with alternatives to [spraying]
8365 treatment which will abate the infestation.

8366 Section 363. Section **4-35-108**, which is renumbered from Section 4-35-8 is
8367 renumbered and amended to read:

8368 **[4-35-8]. 4-35-108. Persons and activities exempt from civil liability.**

8369 No state agency or [its] state agency officers and employees nor the officers, agents,
8370 employees, or representatives of any governmental or private entity acting under the authority
8371 granted by this chapter is liable for claims arising out of the reasonable exercise or performance
8372 of duties and responsibilities under this chapter.

8373 Section 364. Section **4-35-109**, which is renumbered from Section 4-35-9 is

8374 renumbered and amended to read:

8375 ~~[4-35-9].~~ **4-35-109. Department to adopt rules.**

8376 The department is authorized to adopt and enforce rules to administer this chapter in
8377 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

8378 Section 365. Section **4-38-101**, which is renumbered from Section 4-38-1 is
8379 renumbered and amended to read:

8380 **CHAPTER 38. UTAH HORSE REGULATION ACT**

8381 ~~[4-38-1].~~ **4-38-101. Title.**

8382 This chapter ~~[shall be]~~ is known as the "Utah Horse Regulation Act."

8383 Section 366. Section **4-38-102**, which is renumbered from Section 4-38-2 is
8384 renumbered and amended to read:

8385 ~~[4-38-2].~~ **4-38-102. Definitions.**

8386 As used in this chapter:

8387 (1) "Commission" means the Utah Horse Racing Commission created by this chapter.

8388 (2) "Executive director" means the executive director of the commission.

8389 (3) "Mixed meet" means a race meet that includes races by more than one breed of
8390 horse.

8391 (4) "Race meet" means the entire period of time for which a licensee has been
8392 approved by the commission to hold horse races.

8393 (5) "Racetrack facility" means a racetrack within Utah approved by the commission for
8394 the racing of horses, including the track surface, grandstands, clubhouse, all animal housing
8395 and handling areas, and other areas in which a person may enter only upon payment of an
8396 admission fee or upon presentation of authorized credentials.

8397 (6) "Recognized race meet" means a race meet recognized by a national horse breed
8398 association.

8399 (7) "Utah bred horse" means a horse that is sired by a stallion standing in Utah at the
8400 time the dam was bred.

8401 Section 367. Section **4-38-103**, which is renumbered from Section 4-38-3 is

8402 renumbered and amended to read:

8403 ~~[4-38-3].~~ **4-38-103. Utah Horse Racing Commission.**

8404 (1) (a) There is created within the department the Utah Horse Racing Commission.

8405 (b) (i) The commission shall consist of seven members who shall be United States
8406 citizens, Utah residents, and qualified voters ~~[of]~~ in Utah.

8407 (ii) Each member shall have an interest in horse racing.

8408 (iii) Two members shall be chosen from horse racing organizations.

8409 (c) (i) The governor shall appoint the members of the commission.

8410 (ii) The governor shall appoint commission members from a list of nominees submitted
8411 by the commissioner of agriculture and food.

8412 (d) (i) The members of the commission shall be appointed to four-year terms.

8413 (ii) A commission member may not serve more than two consecutive terms.

8414 (e) Each member shall hold office until ~~[his or her]~~ the member's successor is
8415 appointed and qualified.

8416 (f) Vacancies on the commission shall be filled by appointment by the governor for the
8417 unexpired term.

8418 (g) (i) A member may be removed from office by the governor for cause after a public
8419 hearing.

8420 (ii) Notice of the hearing shall fix the time and place of the hearing and shall specify
8421 the charges.

8422 (iii) Copies of the notice of the hearing shall be served on the member by mailing ~~[it]~~
8423 the notice of hearing to the member at ~~[his]~~ the member's last known address at least 10 days
8424 before the date fixed for the hearing.

8425 (iv) The governor may designate a hearing officer to preside over the hearing and
8426 report ~~[his]~~ the hearing findings to the governor.

8427 (2) (a) The members of the commission shall annually elect a commission chair.

8428 (b) Five members of the commission shall constitute a quorum for the transaction of
8429 any business of the commission.

8430 (3) A member may not receive compensation or benefits for the member's service, but
8431 may receive per diem and travel expenses in accordance with:

8432 (a) Section 63A-3-106;

8433 (b) Section 63A-3-107; and

8434 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
8435 63A-3-107.

8436 (4) All claims and expenditures made under this chapter shall be first audited and
8437 passed [upon] by the commission and when approved shall be paid in the manner provided by
8438 law for payment of claims against the state.

8439 (5) Any member of the commission who has a personal or private interest in any matter
8440 proposed or pending before the commission shall publicly disclose this fact to the commission
8441 and may not vote on the matter.

8442 (6) Any member of the commission who owns or who has any interest₂ or whose
8443 spouse or member of his immediate family has any interest₂ in a horse participating in a race
8444 shall disclose that interest and may not participate in any commission decision involving that
8445 race.

8446 Section 368. Section 4-38-104, which is renumbered from Section 4-38-4 is
8447 renumbered and amended to read:

8448 ~~[4-38-4].~~ **4-38-104. Powers and duties of commission.**

8449 (1) The commission shall:

8450 (a) license, regulate, and supervise all persons involved in the racing of horses as
8451 provided in this chapter;

8452 (b) license, regulate, and supervise all recognized race meets held in this state under the
8453 terms of this chapter;

8454 (c) cause the various places where recognized race meets are held to be visited and
8455 inspected at least once a year;

8456 (d) assist in procuring public liability insurance coverage from a private insurance
8457 company for those licensees unable to otherwise obtain the insurance required under this

8458 chapter;

8459 (e) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

8460 Rulemaking Act, to govern race meets, including rules:

8461 (i) to resolve scheduling conflicts and settle disputes among licensees;

8462 (ii) to supervise, discipline, suspend, fine, and bar from events all persons required to

8463 be licensed by this chapter; and

8464 (iii) to hold, conduct, and operate all recognized race meets conducted pursuant to this

8465 chapter;

8466 (f) determine which persons participating, directly or indirectly, in recognized race

8467 meets require licenses;

8468 (g) announce the time, place, and duration of recognized race meets for which licenses

8469 shall be required; and

8470 (h) establish reasonable fees for all licenses provided for under this chapter.

8471 (2) The commission may:

8472 (a) grant, suspend, or revoke licenses issued under this chapter;

8473 (b) impose fines as provided in this chapter;

8474 (c) access criminal history record information for all licensees and commission

8475 employees; and

8476 (d) exclude from any racetrack facility in this state any person who the commission

8477 considers detrimental to the best interests of racing or any person who violates any provisions

8478 of this chapter or any rule or order of the commission.

8479 Section 369. Section **4-38-105**, which is renumbered from Section 4-38-5 is

8480 renumbered and amended to read:

8481 **[4-38-5]. 4-38-105. Executive director.**

8482 (1) The commission shall be under the general administrative control of an executive

8483 director appointed by the commissioner with the concurrence of the commission.

8484 (2) The executive director shall serve at the pleasure of the commissioner.

8485 Section 370. Section **4-38-106**, which is renumbered from Section 4-38-6 is

8486 renumbered and amended to read:

8487 ~~[4-38-6]~~. **4-38-106. Public records.**

8488 All records of the commission shall be subject to Title 63G, Chapter 2, Government
8489 Records Access and Management Act.

8490 Section 371. Section **4-38-201**, which is renumbered from Section 4-38-7 is
8491 renumbered and amended to read:

8492 **Part 2. Events**

8493 ~~[4-38-7]~~. **4-38-201. Licenses -- Fees -- Duties of licensees.**

8494 (1) The commission may grant licenses for participation in racing and other activities
8495 associated with racetracks.

8496 (2) The commission shall establish a schedule of fees for the application for and
8497 renewal and reinstatement of all licenses issued under this chapter.

8498 (3) Each person holding a license under this chapter shall comply with this chapter and
8499 with all rules [~~promulgated~~] issued and all orders issued by the commission under this chapter.

8500 (4) Any person who holds a recognized race meet or who participates directly or
8501 indirectly in a recognized race meet without being first licensed by the commission as required
8502 under this chapter and any person violating any provisions of this chapter is subject to penalties
8503 under Section [~~4-2-15~~] 4-2-305.

8504 Section 372. Section **4-38-202**, which is renumbered from Section 4-38-8 is
8505 renumbered and amended to read:

8506 ~~[4-38-8]~~. **4-38-202. Stewards.**

8507 (1) (a) The commission may delegate authority to enforce [~~its~~] commission rules and
8508 this chapter to three stewards employed by the commission at each recognized race meet. At
8509 least one of [~~them~~] the stewards shall be selected by the commission.

8510 (b) Stewards shall exercise reasonable and necessary authority as designated by rules of
8511 the commission including the following:

8512 (i) enforce rules of the commission;

8513 (ii) rule on the outcome of events;

8514 (iii) evict from an event any person who has been convicted of bookmaking, bribery, or
8515 attempts to alter the outcome of any race through tampering with any animal that is not in
8516 accordance with this chapter or the rules of the commission;

8517 (iv) levy fines not to exceed \$2,500 for violations of rules of the commission, which
8518 fines shall be reported daily and paid to the commission within 48 hours of imposition and
8519 notice;

8520 (v) suspend licenses not to exceed one year for violations of rules of the commission,
8521 which suspension shall be reported to the commission daily; and

8522 (vi) recommend that the commission impose fines or suspensions greater than
8523 permitted by Subsections (1)(b)(iv) and (v).

8524 (2) If a majority of the stewards agree, they may impose fines or suspend licenses.

8525 (3) (a) Any fine or license suspension imposed by a steward may be appealed in writing
8526 to the commission within five days after [its] the license suspension imposition. The
8527 commission may affirm or reverse the decision of a steward or may increase or decrease any
8528 fine or suspension.

8529 (b) A fine imposed by the commission under this section or Section ~~[4-38-9]~~ 4-38-301
8530 may not exceed \$10,000.

8531 (c) Suspensions of a license may be for any period of time but shall be commensurate
8532 with the seriousness of the offense.

8533 Section 373. Section **4-38-203**, which is renumbered from Section 4-38-10 is
8534 renumbered and amended to read:

8535 ~~[4-38-10].~~ **4-38-203. Race meets -- Licenses -- Fairs.**

8536 (1) Each person making application for a license to hold a race meet under this chapter
8537 shall file an application with the commission which shall set forth the time, place, and number
8538 of days the race meet will continue, and other information the commission may require.

8539 (2) A person who has been convicted of a crime involving moral turpitude may not be
8540 issued a license to hold a race meet.

8541 (3) (a) The license issued shall specify the kind and character of the race meet to be

8542 held, the number of days the race meet shall continue, and the number of races per day.

8543 (b) The licensee shall pay in advance of the scheduled race meet to the commission a
8544 fee of not less than \$25. If unforeseen obstacles arise which prevent the holding or completion
8545 of any race meet, the license fee held may be refunded to the licensee if the commission
8546 considers the reason for failure to hold or complete the race meet sufficient.

8547 (4) (a) Any unexpired license held by any person who violates any of the provisions of
8548 this chapter, or [who] fails to pay to the commission any fees required under this chapter, shall
8549 be subject to cancellation and revocation by the commission.

8550 (b) This cancellation shall be made only after a summary hearing before the
8551 commission, of which seven days notice in writing shall be given the licensee, specifying the
8552 grounds for the proposed cancellation. At the hearing, the licensee shall be given an
8553 opportunity to be heard in opposition to the proposed cancellation.

8554 (5) (a) Fair boards or fair districts that conduct race meets in connection with regularly
8555 scheduled annual fairs shall be exempt from payment of the fees provided in this section,
8556 unless they sponsor a race in which the speed indexes are officially recognized under breed
8557 requirements.

8558 (b) All fair boards and fair meets shall be limited to 14 race days, unless otherwise
8559 permitted by a unanimous vote of the commission.

8560 (6) The exemption from the payment of fees under Subsection (5)(a) does not apply to
8561 those qualifying for official speed index races.

8562 Section 374. Section **4-38-301**, which is renumbered from Section 4-38-9 is
8563 renumbered and amended to read:

8564 **Part 3. Investigations and Prohibitions**

8565 **~~[4-38-9]~~. 4-38-301. Investigation -- License denial and suspension -- Grounds**
8566 **for revocation -- Fines.**

8567 (1) The commission or [its] board of stewards of a recognized race meet, upon their
8568 own motion may, and upon verified complaint in writing of any person shall, investigate the
8569 activities of any licensee within the state or any licensed person upon the premises of a

8570 racetrack facility.

8571 (2) The commission or board of stewards may fine, suspend a license, or deny an
8572 application for a license.

8573 (3) The commission may revoke a license, if the licensee has committed any of the
8574 following violations:

8575 (a) substantial or willful misrepresentation;

8576 (b) disregard for or violation of any provisions of this chapter or of any rule

8577 [~~promulgated~~] issued by the commission;

8578 (c) conviction of a felony under the laws of this or any other state or of the United

8579 States, a certified copy of the judgment of the court of conviction of which shall be

8580 presumptive evidence of the conviction in any hearing held under this section;

8581 (d) fraud, willful misrepresentation, or deceit in racing;

8582 (e) falsification, misrepresentation, or omission of required information in a license

8583 application to the commission;

8584 (f) failure to disclose to the commission a complete ownership or beneficial interest in

8585 a horse entered to be raced;

8586 (g) misrepresentation or attempted misrepresentation in connection with the sale of a

8587 horse or other matter pertaining to racing or registration of racing animals;

8588 (h) failure to comply with any order or rulings of the commission, the stewards, or a

8589 racing official pertaining to a racing matter;

8590 (i) ownership of any interest in or participation by any manner in any bookmaking,

8591 pool-selling, touting, bet solicitation, or illegal enterprise;

8592 (j) being unqualified by experience or competence to perform the activity permitted by

8593 the license possessed or being applied for;

8594 (k) employment or harboring of any unlicensed person on the premises of a racetrack

8595 facility;

8596 (l) discontinuance of or ineligibility for the activity for which the license was issued;

8597 (m) being currently under suspension or revocation of a racing license in another racing

8598 jurisdiction;

8599 (n) possession on the premises of a racetrack facility of:

8600 (i) firearms; or

8601 (ii) a battery, buzzer, electrical device, or other appliance other than a whip which
8602 could be used to alter the speed of a horse in a race or while working out or schooling;

8603 (o) possession, on the premises of a racetrack facility, by a person other than a licensed
8604 veterinarian of a hypodermic needle, hypodermic syringe, or other similar device that may be
8605 used in administering medicine internally in a horse, or any substance, compound items, or
8606 combination of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter
8607 the normal performance of a horse unless specifically authorized by a commission-approved
8608 veterinarian;

8609 (p) cruelty to or neglect of a horse;

8610 (q) offering, promising, giving, accepting, or soliciting a bribe in any form, directly or
8611 indirectly, to or by a person having any connection with the outcome of a race, or failure to
8612 report knowledge of such act immediately to the stewards, the patrol judges, or the
8613 commission;

8614 (r) causing, attempting to cause, or participation in any way in any attempt to cause the
8615 prearrangement of a race result, or failure to report knowledge of such act immediately to the
8616 stewards, the patrol judges, or the commission;

8617 (s) entering, or aiding and abetting the entry of, a horse ineligible or unqualified for the
8618 race entered;

8619 (t) willfully or unjustifiably entering or racing any horse in any race under any name or
8620 designation other than the name or designation assigned to the animal by and registered with
8621 the official recognized registry for that breed of animal, or willfully setting on foot, instigating,
8622 engaging in, or in any way furthering any act by which any horse is entered or raced in any race
8623 under any name or designation other than the name or designation duly assigned by and
8624 registered with the official recognized registry for the breed of animal; or

8625 (u) racing at a racetrack facility without having that horse registered to race at that

8626 racetrack facility.

8627 (4) (a) Any person who fails to pay in a timely manner any fine imposed pursuant to
8628 this chapter shall pay, in addition to the fine due, a penalty amount equal to the fine.

8629 (b) Any person who submits to the commission a check in payment of a fine or license
8630 fee requirement imposed pursuant to this chapter, which is not honored by the financial
8631 institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount
8632 equal to the fine.

8633 Section 375. Section **4-38-302**, which is renumbered from Section 4-38-11 is
8634 renumbered and amended to read:

8635 **~~[4-38-11].~~ 4-38-302. Stimulation or retardation of animals prohibited -- Tests.**

8636 (1) Any person who uses or permits the use of any mechanical or electrical device, or
8637 drug of any kind, to stimulate or retard any animal in any race authorized by this chapter,
8638 except as prescribed by the commission, is guilty of a class A misdemeanor.

8639 (2) A commission member or race steward may cause tests to be made that ~~[they~~
8640 ~~consider]~~ the commission considers proper to determine whether any animal has been
8641 stimulated or retarded. Tests performed in furtherance of this section shall be conducted by or
8642 under the supervision of a licensed Utah veterinarian.

8643 Section 376. Section **4-38-303**, which is renumbered from Section 4-38-12 is
8644 renumbered and amended to read:

8645 **~~[4-38-12].~~ 4-38-303. Bribery and touting prohibited.**

8646 Any person who gives or promises or attempts to give, or any person who receives or
8647 agrees to receive or attempts to receive, any money, bribe, or thing of value with intent to
8648 influence any person to dishonestly umpire, manage, direct, judge, preside, officiate at, or
8649 participate in any race conducted under this chapter with the intent or purpose that the result of
8650 the race will be affected or influenced thereby, is guilty of a felony of the third degree and
8651 subject to a fine of not more than \$10,000.

8652 Section 377. Section **4-38-304**, which is renumbered from Section 4-38-15 is
8653 renumbered and amended to read:

8654 ~~[4-38-15]~~. 4-38-304. **Gambling disclaimer.**

8655 Nothing in this chapter may be construed to legalize or permit any form of gambling.

8656 Section 378. Section **4-38-401**, which is renumbered from Section 4-38-13 is

8657 renumbered and amended to read:

8658 **Part 4. Finances**

8659 ~~[4-38-13]~~. 4-38-401. **Race meet escrow.**

8660 (1) Each race meet licensee shall deposit in escrow all added money and money from
8661 payment races in a FDIC bank that has received prior approval from the commission.

8662 (2) All payment deposits shall be made in a timely manner determined by the
8663 commission, and each licensee shall provide proof of deposits as required by the commission.

8664 Section 379. Section **4-38-402**, which is renumbered from Section 4-38-16 is

8665 renumbered and amended to read:

8666 ~~[4-38-16]~~. 4-38-402. **Horse Racing Account created -- Contents -- Use of**
8667 **account money.**

8668 (1) There is created within the General Fund a restricted account known as the Horse
8669 Racing Account.

8670 (2) The Horse Racing Account consists of:

8671 (a) license fees collected under this chapter;

8672 (b) revenue from fines imposed under this chapter; and

8673 (c) interest on account money.

8674 (3) Upon appropriation by the Legislature, money from the account shall be used for
8675 the administration of this chapter, including paying the costs of:

8676 (a) public liability insurance;

8677 (b) stewards;

8678 (c) veterinarians; and

8679 (d) drug testing.

8680 Section 380. Section **4-38-501**, which is renumbered from Section 4-38-14 is

8681 renumbered and amended to read:

Part 5. Hearings

~~[4-38-14].~~ **4-38-501. Hearings.**

(1) Except as otherwise provided in this section, all proceedings before the commission or ~~[its]~~ the commission's hearing officer with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

(2) (a) These proceedings shall be held in the county where the commission has ~~[its]~~ an office or in any other place the commission designates.

(b) The commission shall notify the applicant or licensee by mailing, by first class mail, a copy of the written notice required to the last address furnished by the application or licensee to the commission at least seven days in advance of the hearing.

(3) The commission may delegate ~~[its]~~ the commission's authority to conduct hearings with respect to the denial or suspension of licenses or the imposition of a fine to a hearing officer.

(4) Proceedings before the board of stewards need not be governed by the procedural or other requirements of ~~[the]~~ Title 63G, Chapter 4, Administrative Procedures Act, but rather shall be conducted in accordance with rules adopted by the commission.

(5) The commission and the board of stewards may administer oaths and affirmations, sign and issue subpoenas, order the production of documents and other evidence, and regulate the course of the hearing pursuant to rules adopted by ~~[it]~~ the commission.

(6) (a) Any person aggrieved by a final order or ruling issued by a board of stewards may appeal the order or ruling to the commission pursuant to procedural rules adopted by the commission.

(b) The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

Section 381. Section **4-39-102** is amended to read:

4-39-102. Definitions.

As used in this chapter:

8710 (1) "Domesticated elk" means elk of the genus and species cervus elaphus, held in
8711 captivity and domestically raised for commercial purposes.

8712 (2) "Domesticated elk facility" means a facility where only domesticated elk are raised.

8713 (3) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat
8714 food product, antlers, or any part of a domesticated elk.

8715 Section 382. Section **4-39-104** is amended to read:

8716 **4-39-104. Domesticated Elk Act advisory council.**

8717 (1) The department shall establish a Domesticated Elk Act advisory council to give
8718 advice and make recommendations on policies and rules adopted pursuant to this chapter.

8719 (2) The advisory council shall consist of 10 members appointed by the commissioner
8720 of agriculture to four-year terms as follows:

8721 (a) one member, recommended by the executive director of the Department of Natural
8722 Resources, shall represent the Department of Natural Resources;

8723 (b) two members, one of whom shall be the state veterinarian, shall represent the
8724 Department of Agriculture[~~one of whom shall be the state veterinarian~~];

8725 (c) one member shall represent the livestock industry;

8726 (d) one member, recommended by the executive director of the Department of Natural
8727 Resources from a list of candidates submitted by the Division of Wildlife Resources, shall
8728 represent wildlife interests; and

8729 (e) five members, recommended by the Department of Agriculture, shall represent the
8730 domesticated elk industry.

8731 (3) Notwithstanding the requirements of Subsection (2), the commissioner shall, at the
8732 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
8733 council members are staggered so that approximately half of the council is appointed every two
8734 years.

8735 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
8736 appointed for the unexpired term.

8737 (5) (a) A majority of the advisory council constitutes a quorum.

- 8738 (b) A quorum is necessary for the council to act.
- 8739 (6) A member may not receive compensation or benefits for the member's service, but
- 8740 may receive per diem and travel expenses in accordance with:
- 8741 (a) Section [63A-3-106](#);
- 8742 (b) Section [63A-3-107](#); and
- 8743 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
- 8744 [63A-3-107](#).
- 8745 Section 383. Section **4-39-107** is amended to read:
- 8746 **4-39-107. Powers of state veterinarian.**
- 8747 The state veterinarian shall:
- 8748 (1) set up periodic or ongoing surveillance programs considered necessary for:
- 8749 (a) the recognition, control, monitoring, and elimination of infectious diseases and
- 8750 parasites; and
- 8751 (b) monitoring genetic purity; and
- 8752 (2) quarantine or make any disposition of diseased animals that ~~[he or she]~~ the state
- 8753 veterinarian considers necessary for the control or eradication of that disease.
- 8754 Section 384. Section **4-39-108** is amended to read:
- 8755 **4-39-108. Deposit of fees.**
- 8756 The department shall deposit all fees collected under this chapter into the Utah
- 8757 Livestock Brand and Anti-Theft Account created in Section ~~[4-24-24]~~ [4-24-502](#).
- 8758 Section 385. Section **4-39-201** is amended to read:
- 8759 **4-39-201. Fencing, posts, and gates.**
- 8760 (1) ~~[Each]~~ A domesticated elk facility shall, at a minimum, meet the requirements of
- 8761 this section and shall be constructed to prevent the movement of ~~[domesticated elk]~~ domestic
- 8762 elk and wild cervids into or out of the facility.
- 8763 (2) (a) All perimeter fences and gates shall be:
- 8764 (i) a minimum of eight feet above ground level; and
- 8765 (ii) constructed of hi-tensile steel.

- 8766 (b) At least the bottom four feet shall be mesh with a maximum mesh size of 6" x 6".
- 8767 (c) The remaining four feet shall be mesh with a maximum mesh size of 12" x 6".
- 8768 (3) The minimum wire gauge shall be 14-1/2 gauge for a 2 woven hi-tensile fence.
- 8769 (4) All perimeter gates at the entrances of a domesticated elk handling ~~[facilities]~~
- 8770 facility shall be locked, with consecutive or self-closing gates when animals are present.
- 8771 (5) Posts shall be:
- 8772 (a) (i) constructed of treated wood ~~[which]~~ that is at least four inches in diameter; or
- 8773 (ii) constructed of a material with the strength equivalent of Subsection (5)(a)(i);
- 8774 (b) spaced no more than 30 feet apart if one stay is used, or 20 feet apart if no stays are
- 8775 used; and
- 8776 (c) at least eight feet above ground level and two feet below ground level.
- 8777 (6) Stays, between the posts, shall be:
- 8778 (a) constructed of treated wood or steel;
- 8779 (b) spaced no more than 15 feet from any post; and
- 8780 (c) at least eight feet above ground level, and two feet below ground level.
- 8781 (7) Corner posts and gate posts shall be braced wood or its strength equivalent.
- 8782 Section 386. Section **4-39-202** is amended to read:
- 8783 **4-39-202. General facility requirements.**
- 8784 (1) (a) Internal handling facilities shall be capable of humanely restraining an
- 8785 individual animal and to facilitate:
- 8786 (i) the application or reading of any animal identification;
- 8787 (ii) the taking of blood or tissue samples; and
- 8788 (iii) any other required or necessary testing procedure.
- 8789 (b) A domesticated elk facility shall be properly constructed to protect inspection
- 8790 personnel while ~~[they]~~ inspection personnel are handling the domesticated elk.
- 8791 (2) The domesticated elk facility owner shall provide ample signage around the facility
- 8792 indicating that it is a domesticated elk facility, so that the public is put on notice that the
- 8793 animals are not wild elk.

8794 Section 387. Section **4-39-203** is amended to read:

8795 **4-39-203. License required to operate a domesticated elk facility.**

8796 (1) A person may not operate a domesticated elk facility without first obtaining a
8797 license from the department.

8798 (2) (a) Each application for a license to operate a domesticated elk facility shall be
8799 accompanied by a fee.

8800 (b) The fee shall be established by the department in accordance with Section
8801 **63J-1-504**.

8802 (3) Each applicant for a domesticated elk facility license shall submit an application
8803 providing all information in the form and manner as required by the department.

8804 (4) (a) No license shall be issued until the department has inspected and approved the
8805 facility.

8806 (b) The department shall:

8807 (i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled
8808 inspection so that a Division of Wildlife Resources representative may be present at the
8809 inspection; and

8810 (ii) provide the Division of Wildlife Resources with copies of all licensing and
8811 inspection reports.

8812 (5) Each separate location of the domesticated elk operation shall be licensed
8813 separately.

8814 (6) (a) If a domesticated elk facility is operated under more than one business name
8815 from a single location, the name of each operation shall be listed with the department in the
8816 form and manner required by the department.

8817 (b) The department shall require that a separate fee be paid for each business name
8818 listed.

8819 (c) If a domesticated elk facility operates under more than one business name from a
8820 single location, ~~the~~ each facility shall maintain separate records.

8821 (7) Each person or business entity with an equity interest in the domesticated elk shall

8822 be listed on the application for license.

8823 (8) Each domesticated elk facility license shall expire on July 1 in the year following
8824 the year of issuance.

8825 (9) Each licensee shall report to the department, in the form and manner required by
8826 the department, any change in the information provided in the licensee's application or in the
8827 reports previously submitted, within 15 days of each change.

8828 (10) Licenses issued pursuant to this section are not transferable.

8829 Section 388. Section **4-39-205** is amended to read:

8830 **4-39-205. License renewal.**

8831 (1) To renew a license, the licensee shall submit to the department:

8832 (a) an inspection certificate showing that:

8833 (i) the domesticated elk, on the domesticated elk facility, have been inspected and
8834 certified by the department for health, proof of ownership, and genetic purity certification for
8835 all elk imported into the state; and

8836 (ii) the facility has been properly maintained as provided in this chapter during the
8837 immediately preceding 60-day period; and

8838 (b) a record of each purchase of domesticated elk and transfer of domesticated elk into
8839 the facility, which shall include the following information:

8840 (i) name, address, and health approval number of the source;

8841 (ii) date of transaction; and

8842 (iii) number and sex.

8843 (2) (a) If the application for renewal is not received on or before April 30, a late fee
8844 will be charged.

8845 (b) A license may not be renewed until the fee is paid.

8846 (3) If the application and fee for renewal are not received on or before July 1, the
8847 license may not be renewed, and a new license shall be required.

8848 Section 389. Section **4-39-206** is amended to read:

8849 **4-39-206. Records to be maintained.**

(1) The following records and information shall be maintained by a domesticated elk facility for ~~[a period of five years]~~ the life of the animal plus two years:

(a) records of purchase, acquisition, distribution, and production histories of domesticated elk;

(b) records documenting antler harvesting, production, and distribution; and

(c) health certificates ~~[and genetic purity records]~~.

(2) For purposes of carrying out the provisions of this chapter and rules ~~[promulgated]~~ made under this chapter ~~[and]~~, at any reasonable time during regular business hours, the department shall have free and unimpeded access to inspect all records required to be kept.

(3) The department may make copies of the records referred to in this section.

Section 390. Section ~~4-39-207~~ is amended to read:

4-39-207. Inspection of facilities.

(1) The department may conduct pathological or physical investigations at any domesticated elk facility to ensure compliance with this chapter.

(2) For purposes of carrying out the provisions of this chapter and rules ~~[promulgated]~~ made under this chapter ~~[and]~~, at any reasonable time during regular business hours, the department shall have free and unimpeded access to inspect all buildings, yards, pens, pastures, and other areas in which any domesticated elk are kept, handled, or transported.

(3) The department shall notify the Division of Wildlife Resources prior to an inspection so that a Division of Wildlife Resources representative may be present at the inspection.

Section 391. Section ~~4-39-301~~ is amended to read:

4-39-301. Health and genetic purity requirements -- Proof of source.

~~[As part of any inspection for licensing or renewing the license of a domesticated elk facility, or for the importation, transportation, or change of ownership of any domesticated elk, the]~~ The department shall require:

~~[(1) proof of genetic testing to ensure the purity of the domesticated elk herds and prevent the introduction of red deer or hybrid nonnative species into domesticated elk herds in~~

8878 Utah by showing evidence of the purity of live animals, gametes, eggs, sperm, or other genetic
8879 material; and]

8880 (1) that each domesticated elk, including gametes, eggs, or sperm, imported into the
8881 state:

8882 (a) test negative for the red deer genetic factor;

8883 (b) be registered with gold or silver status with the North American Elk Breeders
8884 Association; or

8885 (c) come from a state which has a red deer genetic factor prevention program approved
8886 by the department; and

8887 (2) proof that the domesticated elk originates from a legal source as provided in
8888 Section 4-39-302.

8889 Section 392. Section 4-39-304 is amended to read:

8890 **4-39-304. Marking domesticated elk.**

8891 (1) Each domesticated elk, not previously tattooed, shall be marked by either a tattoo,
8892 as provided in Subsection (2), or by ~~[a microchip]~~ an electronic identification tag, as provided
8893 in Subsection (3):

8894 (a) within 30 days of a change of ownership; or

8895 (b) in the case of newborn calves, within 15 days after being weaned, but in any case,
8896 no later than September 15.

8897 (2) If a domesticated elk is identified with a tattoo, the tattoo shall:

8898 (a) be placed peri-anally or inside the right ear; and

8899 (b) consist of a four-digit herd number assigned by the department over a three-digit
8900 individual animal number assigned by the owner.

8901 (3) If a domesticated elk is identified with ~~[a microchip]~~ an electronic identification
8902 tag, it shall be placed in the right ear.

8903 Section 393. Section 4-39-305 is amended to read:

8904 **4-39-305. Transportation of domesticated elk to or from domesticated elk**
8905 **facilities.**

8906 Any domesticated elk transferred to or from a domesticated elk facility within the state
8907 shall be:

8908 (1) accompanied by ~~[a brand inspection certificate]~~ an intrastate movement of
8909 domesticated elk form specifying the following:

- 8910 (a) the name, address, and facility license number of the source;
8911 (b) the number, sex, and individual identification number; and
8912 (c) the name, address, and facility license number of the destination;
8913 (2) accompanied by proof of genetic purity as provided in Section 4-39-301; and
8914 (3) inspected by the department as provided in Section 4-39-306.

8915 Section 394. Section 4-39-306 is amended to read:

8916 **4-39-306. Inspection before movement, sale, or slaughter.**

8917 (1) Each domesticated elk facility licensee shall have the domesticated elk inspected by
8918 the department ~~[prior to]~~ before any transportation, sale, ~~[removal of antlers,]~~ or slaughter.

8919 (2) Any person transporting or possessing domesticated elk or domesticated elk
8920 products shall have the appropriate brand inspection certificate in ~~[his or her]~~ the person's
8921 possession.

8922 Section 395. Section 4-39-401 is amended to read:

8923 **4-39-401. Escape of domesticated elk -- Liability.**

8924 (1) It is the owner's responsibility to try to capture any domesticated elk that may have
8925 escaped.

8926 (2) The escape of a domesticated elk shall be reported immediately to the state
8927 veterinarian or a brand inspector ~~[of the Department of Agriculture]~~ who shall notify the
8928 Division of Wildlife Resources.

8929 (3) If the domesticated elk is not recovered within 72 hours of the escape, the
8930 ~~[Department of Agriculture]~~ department, in conjunction with the Division of Wildlife
8931 Resources, shall take whatever action is necessary to resolve the problem.

8932 (4) The owner shall reimburse the state or a state agency for any reasonable recapture
8933 costs that may be incurred in the recapture or destruction of the animal.

8934 (5) Any escaped domesticated elk taken by a licensed hunter in a manner [~~which~~] that
8935 complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the
8936 Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the
8937 state, nor a state agency shall be liable to the owner for the killing.

8938 (6) The owner shall be responsible to contain the domesticated elk to ensure that there
8939 is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk
8940 is protected.

8941 Section 396. Section **4-39-402** is amended to read:

8942 **4-39-402. Removal of wild cervids -- Liability.**

8943 (1) Upon discovery of a wild [~~elk~~] cervid in a domesticated elk facility, the licensee
8944 shall immediately notify the Division of Wildlife Resources [~~who~~], which shall remove the
8945 wild [~~elk~~] cervid.

8946 (2) The state or a state agency is not liable for disease or genetic purity problems of
8947 domesticated elk [~~which~~] that may be attributed to wild [~~elk~~] cervids.

8948 Section 397. Section **4-40-102** is amended to read:

8949 **4-40-102. Cat and Dog Community Spay and Neuter Program Restricted**
8950 **Account -- Interest -- Use of contributions and interest.**

8951 (1) There is created within the General Fund the Cat and Dog Community Spay and
8952 Neuter Program Restricted Account.

8953 (2) The account shall be funded by contributions deposited into the Cat and Dog
8954 Community Spay and Neuter Program Restricted Account in accordance with Section
8955 [59-10-1310](#).

8956 (3) (a) The Cat and Dog Community Spay and Neuter Program Restricted Account
8957 shall earn interest.

8958 (b) Interest earned on the Cat and Dog Community Spay and Neuter Program
8959 Restricted Account shall be deposited into the Cat and Dog Community Spay and Neuter
8960 Program Restricted Account.

8961 (4) The department [~~of Agriculture~~] shall distribute contributions and interest deposited

8962 into the Cat and Dog Community Spay and Neuter Program Restricted Account to one or more
8963 organizations that:

8964 (a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue
8965 Code; or

8966 (b) operate as a city or county animal shelter.

8967 (5) (a) An organization described in Subsection (4) may apply to the department to
8968 receive a distribution in accordance with Subsection (4).

8969 (b) An organization that receives a distribution from the department in accordance with
8970 Subsection (4):

8971 (i) shall expend the distribution only to spay or neuter dogs and cats:

8972 (A) owned by persons having low incomes; and

8973 (B) by veterinarians who are licensed by Title 58, Chapter 28, Veterinary Practice Act;
8974 and

8975 (ii) may not expend the distribution for any administrative cost relating to an
8976 expenditure authorized by Subsection (5)(b)(i).

8977 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
8978 department may make rules:

8979 (i) providing procedures and requirements for an organization to apply to the
8980 department to receive a distribution in accordance with Subsection (4); and

8981 (ii) to define what constitutes a person having a low income.

8982 Section 398. Section **4-41-103** is amended to read:

8983 **4-41-103. Industrial hemp -- Agricultural and academic research.**

8984 (1) The department may grow or cultivate industrial hemp for the purpose of
8985 agricultural or academic research.

8986 (2) The department shall certify a higher education institution to grow or cultivate
8987 industrial hemp for the purpose of agricultural or academic research if the higher education
8988 institution submits to the department:

8989 (a) the location where the higher education institution intends to grow or cultivate

8990 industrial hemp;

8991 (b) the higher education institution's research plan; and

8992 (c) the name of an employee of the higher education institution who will supervise the
8993 industrial hemp growth, cultivation, and research.

8994 (3) The department shall maintain a list of each industrial hemp certificate holder.

8995 (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
8996 Administrative Rulemaking Act, to ensure any industrial hemp project meets the standards of
8997 an agricultural pilot project, as defined by Section 7606 of the [U.S.] United States Agricultural
8998 Act of 2014.

8999 (5) The department may set a fee, pursuant to Subsection 4-2-103(2), for the
9000 application of an industrial hemp certificate.

9001 Section 399. Section **10-8-85.8** is amended to read:

9002 **10-8-85.8. Indemnification of farmers markets.**

9003 A municipality may:

9004 (1) operate a farmers market, as defined in Section [~~4-5-2~~] 4-5-102, on
9005 municipality-owned property in order to promote economic development;

9006 (2) indemnify a food producer participating in the farmers market; and

9007 (3) define the scope of the indemnification in an agreement with the food producer.

9008 Section 400. Section **11-38-302** is amended to read:

9009 **11-38-302. Use of money in program -- Criteria -- Administration.**

9010 (1) Subject to Subsection (2), the commission may authorize the use of money in the
9011 program, by grant, to:

9012 (a) a local entity;

9013 (b) the Department of Natural Resources created under Section 79-2-201;

9014 (c) the Department of Agriculture and Food created under Section [~~4-2-1~~] 4-2-102; or

9015 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3)
9016 [~~of the~~], Internal Revenue Code.

9017 (2) (a) The money in the program shall be used for preserving or restoring open land

9018 and agricultural land.

9019 (b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be
9020 used to purchase a fee interest in real property in order to preserve open land or agricultural
9021 land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land
9022 Conservation Easement Act, or to fund similar methods to preserve open land or agricultural
9023 land.

9024 (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to
9025 purchase a fee interest in real property to preserve open land or agricultural land if:

9026 (A) the parcel to be purchased is no more than 20 acres in size; and

9027 (B) with respect to a parcel purchased in a county in which over 50% of the land area is
9028 publicly owned, real property roughly equivalent in size and located within that county is
9029 contemporaneously transferred to private ownership from the governmental entity that
9030 purchased the fee interest in real property.

9031 (iii) Eminent domain may not be used or threatened in connection with any purchase
9032 using money from the program.

9033 (iv) A parcel of land larger than 20 acres in size may not be divided into separate
9034 parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

9035 (c) A local entity, department, or organization under Subsection (1) may not receive
9036 money from the program unless it provides matching funds equal to or greater than the amount
9037 of money received from the program.

9038 (d) In granting money from the program, the commission may impose conditions on
9039 the recipient as to how the money is to be spent.

9040 (e) The commission shall give priority to requests from the Department of Natural
9041 Resources for up to 20% of each annual increase in the amount of money in the program if the
9042 money is used for the protection of wildlife or watershed.

9043 (f) (i) The commission may not make a grant from the program that exceeds
9044 \$1,000,000 until after making a report to the Legislative Management Committee about the
9045 grant.

9046 (ii) The Legislative Management Committee may make a recommendation to the
9047 commission concerning the intended grant, but the recommendation is not binding on the
9048 commission.

9049 (3) In determining the amount and type of financial assistance to provide an entity,
9050 department, or organization under Subsection (1) and subject to Subsection (2)(f), the
9051 commission shall consider:

9052 (a) the nature and amount of open land and agricultural land proposed to be preserved
9053 or restored;

9054 (b) the qualities of the open land and agricultural land proposed to be preserved or
9055 restored;

9056 (c) the cost effectiveness of the project to preserve or restore open land or agricultural
9057 land;

9058 (d) the funds available;

9059 (e) the number of actual and potential applications for financial assistance and the
9060 amount of money sought by those applications;

9061 (f) the open land preservation plan of the local entity where the project is located and
9062 the priority placed on the project by that local entity;

9063 (g) the effects on housing affordability and diversity; and

9064 (h) whether the project protects against the loss of private property ownership.

9065 (4) If a local entity, department, or organization under Subsection (1) seeks money
9066 from the program for a project whose purpose is to protect critical watershed, the commission
9067 shall require that the needs and quality of that project be verified by the state engineer.

9068 (5) Each interest in real property purchased with money from the program shall be held
9069 and administered by the state or a local entity.

9070 Section 401. Section **17-50-323** is amended to read:

9071 **17-50-323. Indemnification of farmers markets.**

9072 A county may:

9073 (1) operate a farmers market, as defined in Section ~~[4-5-2]~~ 4-5-102, on county-owned

9074 property in order to promote economic development;

9075 (2) indemnify a food producer participating in the farmers market; and

9076 (3) define the scope of the indemnification in an agreement with the food producer.

9077 Section 402. Section **17D-3-102** is amended to read:

9078 **17D-3-102. Definitions.**

9079 As used in this chapter:

9080 (1) "Commission" means the Conservation Commission, created in Section [4-18-104](#).

9081 (2) "Conservation district" means a limited purpose local government entity, as
9082 described in Section [17D-3-103](#), that operates under, is subject to, and has the powers set forth
9083 in this chapter.

9084 (3) "Department" means the Department of Agriculture and Food, created in Section
9085 ~~[4-2-1]~~ [4-2-102](#).

9086 Section 403. Section **23-13-19** is amended to read:

9087 **23-13-19. Administering substances to protected wildlife prohibited --**
9088 **Exceptions.**

9089 (1) For purposes of this section:

9090 (a) "Administer" means the application of a substance by any method, including:

9091 (i) injection;

9092 (ii) inhalation;

9093 (iii) ingestion; or

9094 (iv) absorption.

9095 (b) "Agricultural producer" means a person who produces an agricultural product.

9096 (c) "Agricultural product" ~~[is as]~~ means the same as that term is defined in Section
9097 ~~[4-1-8]~~ [4-1-109](#).

9098 (d) "Substance" means a chemical or organic substance that:

9099 (i) pacifies;

9100 (ii) sedates;

9101 (iii) immobilizes;

- 9102 (iv) harms;
9103 (v) kills;
9104 (vi) controls fertility; or
9105 (vii) has an effect that is similar to an effect listed in Subsections (1)(d)(i) through (vi).

9106 (2) Except as authorized by Subsection (3) or a rule made by the Wildlife Board, a
9107 person may not administer or attempt to administer a substance to protected wildlife.

9108 (3) (a) A division employee or a person with written permission from the division may
9109 administer a substance to protected wildlife if that employee or person administers the
9110 substance to promote wildlife management and conservation.

9111 (b) One or more of the following may administer a substance to protected wildlife that
9112 the person is authorized by this title, the Wildlife Board, or the division to possess:

- 9113 (i) a licensed veterinarian;
9114 (ii) an unlicensed assistive personnel, as defined in Section 58-28-102; or
9115 (iii) a person who is following written instructions for veterinary care from a licensed
9116 veterinarian.

9117 (4) A person is not liable under this section for administering a substance,
9118 notwithstanding the substance has an effect described in Subsection (1)(d) on protected
9119 wildlife, if:

9120 (a) an agricultural producer administers the substance:
9121 (i) for the sole purpose of producing an agricultural product and not for the purpose of
9122 affecting protected wildlife in a manner described in Subsection (1)(d);

9123 (ii) consistent with generally accepted agricultural practices; and

9124 (iii) in compliance with applicable local, state, and federal law; or

9125 (b) the protected wildlife presents an immediate threat of death or serious bodily injury
9126 to a person.

9127 Section 404. Section 23-24-1 is amended to read:

9128 **23-24-1. Procedure to obtain compensation for livestock damage done by bear,**
9129 **mountain lion, wolf, or eagle.**

9130 (1) As used in this section:

9131 (a) "Damage" means injury to or loss of livestock.

9132 (b) "Division" means the Division of Wildlife Resources.

9133 (c) "Livestock" means cattle, sheep, goats, or turkeys.

9134 (d) (i) "Wolf" means the gray wolf *Canis lupus*.

9135 (ii) "Wolf" does not mean a wolf hybrid with a domestic dog.

9136 (2) (a) (i) Except as provided by Subsection (2)(a)(ii), if livestock are damaged by a
9137 bear, mountain lion, wolf, or an eagle, the owner may receive compensation for the fair market
9138 value of the damage.

9139 (ii) The owner may not receive compensation if the livestock is damaged by a wolf
9140 within an area where a wolf is endangered or threatened under the Endangered Species Act of
9141 1973, 16 U.S.C. Sec. 1531, et seq.

9142 (b) To obtain this compensation, the owner of the damaged livestock shall notify the
9143 division of the damage as soon as possible, but no later than four days after the damage is
9144 discovered.

9145 (c) The owner shall notify the division each time any damage is discovered.

9146 (3) The livestock owner shall file a proof of loss form, provided by the division, no
9147 later than 30 days after the original notification of damage was given to the division by the
9148 owner.

9149 (4) (a) (i) The division, with the assistance of the Department of Agriculture and Food
9150 shall:

9151 (A) within 30 days after the owner files the proof of loss form, either accept or deny the
9152 claim for damages; and

9153 (B) subject to Subsections (4)(a)(ii) through (4)(a)(iv), pay all accepted claims to the
9154 extent money appropriated by the Legislature is available for this purpose.

9155 (ii) Money appropriated from the Wildlife Resources Account may be used to provide
9156 compensation for only up to 50% of the fair market value of any damaged livestock.

9157 (iii) Money appropriated from the Wildlife Resources Account may not be used to

9158 provide compensation for livestock damaged by an eagle or a wolf.

9159 (iv) The division may not pay any eagle damage claim until the division has paid all
9160 accepted mountain lion and bear damage claims for the fiscal year.

9161 (b) The division may not pay mountain lion, bear, wolf, or eagle damage claims to a
9162 livestock owner unless the owner has filed a completed livestock form and the appropriate fee
9163 as outlined in Section [~~4-23-7~~] [4-23-107](#) for the immediately preceding and current year.

9164 (c) (i) Unless the division denies a claim for the reason identified in Subsection (4)(b),
9165 the owner may appeal the decision to a panel consisting of one person selected by the owner,
9166 one person selected by the division, and a third person selected by the first two panel members.

9167 (ii) The panel shall decide whether the division should pay all of the claim, a portion of
9168 the claim, or none of the claim.

9169 (5) By following the procedures and requirements of Title 63G, Chapter 3, Utah
9170 Administrative Rulemaking Act, the Wildlife Board may make and enforce rules to administer
9171 and enforce this section.

9172 Section 405. Section **26-15-1** is amended to read:

9173 **26-15-1. Definitions.**

9174 As used in this chapter:

9175 (1) (a) "Food handler" means any person working part-time or full-time in a food
9176 service establishment who moves food or food containers, prepares, stores, or serves food;
9177 comes in contact with any food, utensil, tableware or equipment; or washes the same. The term
9178 also includes owners, supervisors, and management persons, and any other person working in a
9179 food-service establishment. The term also includes any operator or person employed by one
9180 who handles food dispensed through vending machines; or who comes into contact with food
9181 contact surfaces or containers, equipment, utensils, or packaging materials used in connection
9182 with vending machine operations; or who otherwise services or maintains one or more vending
9183 machines.

9184 (b) "Food handler" does not include a producer of food products selling food at a
9185 farmers market as defined in Subsection [~~4-5-2~~] [4-5-102](#)(5).

9186 (2) "Pest" means a noxious, destructive, or troublesome organism whether plant or
9187 animal, when found in and around places of human occupancy, habitation, or use which
9188 threatens the public health or well being of the people within the state.

9189 (3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen
9190 that can affect public health.

9191 Section 406. Section **58-37c-19.5** is amended to read:

9192 **58-37c-19.5. Iodine solution greater than 1.5% -- Prescription or permit required**
9193 **-- Penalties.**

9194 (1) As used in this section, "iodine matrix" means iodine at concentrations greater than
9195 1.5% by weight in a matrix or solution.

9196 (2) A person may offer to sell, sell, or distribute an iodine matrix only:

9197 (a) as a prescription drug, pursuant to a prescription issued by a veterinarian or
9198 physician licensed within the state; or

9199 (b) to a person who is actively engaged in the legal practice of animal husbandry of
9200 livestock, as defined in Section [~~4-1-8~~] [4-1-109](#).

9201 (3) Prescriptions issued under this section:

9202 (a) shall provide for a specified number of refills;

9203 (b) may be issued by electronic means, in accordance with Title 58, Chapter 17b,
9204 Pharmacy Practice Act; and

9205 (c) may be filled by a person other than the veterinarian or physician issuing the
9206 prescription.

9207 (4) A retailer offering iodine matrix for sale:

9208 (a) shall store the iodine matrix so that the public does not have access to the iodine
9209 matrix without the direct assistance or intervention of a retail employee;

9210 (b) shall keep a record, which may consist of sales receipts, of each person purchasing
9211 iodine matrix; and

9212 (c) may, if necessary to ascertain the identity of the purchaser, ask for proof of
9213 identification from the purchaser.

9214 (5) A person engaging in a regulated transaction under Subsection (2) is guilty of a
9215 class B misdemeanor if the person, under circumstances not amounting to a violation of
9216 Subsection 58-37d-4(1)(c), offers to sell, sells, or distributes an iodine matrix to a person who:

9217 (a) does not present a prescription or is not engaged in animal husbandry, as required
9218 under Subsection (2); or

9219 (b) is not excepted under Subsection (7).

9220 (6) A person is guilty of a class A misdemeanor who, under circumstances not
9221 amounting to a violation of Subsection 58-37c-3(11)(k) or 58-37d-4(1)(a):

9222 (a) possesses an iodine matrix without proof of obtaining the solution in compliance
9223 with Subsection (2); or

9224 (b) offers to sell, sells, or distributes an iodine matrix in violation of Subsection (2).

9225 (7) Subsection (6)(a) does not apply to:

9226 (a) a chemistry or chemistry-related laboratory maintained by:

9227 (i) a public or private regularly established secondary school; or

9228 (ii) a public or private institution of higher education that is accredited by a regional or
9229 national accrediting agency recognized by the United States Department of Education;

9230 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice
9231 Act;

9232 (c) a general acute hospital; or

9233 (d) a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer,
9234 warehouseman, or common carrier, or an agent of any of these persons who possesses an
9235 iodine matrix in the regular course of lawful business activities.

9236 Section 407. Section 63A-3-205 is amended to read:

9237 **63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.**

9238 (1) As used in this section, "revolving loan fund" means:

9239 (a) the Water Resources Conservation and Development Fund, created in Section
9240 73-10-24;

9241 (b) the Water Resources Construction Fund, created in Section 73-10-8;

- 9242 (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;
- 9243 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
- 9244 Fuels and Vehicle Technology Program Act;
- 9245 (e) the Water Development Security Fund and its subaccounts, created in Section
- 9246 73-10c-5;
- 9247 (f) the Agriculture Resource Development Fund, created in Section 4-18-106;
- 9248 (g) the Utah Rural Rehabilitation Fund, created in Section [~~4-19-4~~] 4-19-105;
- 9249 (h) the Permanent Community Impact Fund, created in Section 35A-8-603;
- 9250 (i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409;
- 9251 (j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;
- 9252 (k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and
- 9253 (l) the Energy Efficiency Fund, created in Section 11-45-201.
- 9254 (2) The division shall for each revolving loan fund:
- 9255 (a) make rules establishing standards and procedures governing:
- 9256 (i) payment schedules and due dates;
- 9257 (ii) interest rate effective dates;
- 9258 (iii) loan documentation requirements; and
- 9259 (iv) interest rate calculation requirements; and
- 9260 (b) make an annual report to the Legislature containing:
- 9261 (i) the total dollars loaned by that fund during the last fiscal year;
- 9262 (ii) a listing of each loan currently more than 90 days delinquent, in default, or that was
- 9263 restructured during the last fiscal year;
- 9264 (iii) a description of each project that received money from that revolving loan fund;
- 9265 (iv) the amount of each loan made to that project;
- 9266 (v) the specific purpose for which the proceeds of the loan were to be used, if any;
- 9267 (vi) any restrictions on the use of the loan proceeds;
- 9268 (vii) the present value of each loan at the end of the fiscal year calculated using the
- 9269 interest rate paid by the state on the bonds providing the revenue on which the loan is based or,

9270 if that is unknown, on the average interest rate paid by the state on general obligation bonds
9271 issued during the most recent fiscal year in which bonds were sold; and

9272 (viii) the financial position of each revolving loan fund, including the fund's cash
9273 investments, cash forecasts, and equity position.

9274 Section 408. Section **63B-1b-102** is amended to read:

9275 **63B-1b-102. Definitions.**

9276 As used in this chapter:

9277 (1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness
9278 representing loans or grants made by an authorizing agency.

9279 (2) "Authorized official" means the state treasurer or other person authorized by a bond
9280 document to perform the required action.

9281 (3) "Authorizing agency" means the board, person, or unit with legal responsibility for
9282 administering and managing revolving loan funds.

9283 (4) "Bond document" means:

9284 (a) a resolution of the commission; or

9285 (b) an indenture or other similar document authorized by the commission that
9286 authorizes and secures outstanding revenue bonds from time to time.

9287 (5) "Commission" means the State Bonding Commission, created in Section
9288 [63B-1-201](#).

9289 (6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

9290 (7) "Revolving Loan Funds" means:

9291 (a) the Water Resources Conservation and Development Fund, created in Section
9292 [73-10-24](#);

9293 (b) the Water Resources Construction Fund, created in Section [73-10-8](#);

9294 (c) the Water Resources Cities Water Loan Fund, created in Section [73-10-22](#);

9295 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
9296 Fuels and Vehicle Technology Program Act;

9297 (e) the Water Development Security Fund and its subaccounts, created in Section

9298 73-10c-5;

9299 (f) the Agriculture Resource Development Fund, created in Section 4-18-106;

9300 (g) the Utah Rural Rehabilitation Fund, created in Section [~~4-19-4~~] 4-19-105;

9301 (h) the Permanent Community Impact Fund, created in Section 35A-8-303;

9302 (i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409; and

9303 (j) the Transportation Infrastructure Loan Fund, created in Section 72-2-202.

9304 Section 409. Section 63B-1b-202 is amended to read:

9305 **63B-1b-202. Custodial officer -- Powers and duties.**

9306 (1) (a) There is created within the Division of Finance an officer responsible for the
9307 care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust
9308 documents, and other evidences of indebtedness:

9309 (i) owned or administered by the state or any of its agencies; and

9310 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

9311 (b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not
9312 responsible for the care, custody, safekeeping, collection, and accounting of a bond, note,
9313 contract, trust document, or other evidence of indebtedness relating to the:

9314 (i) Agriculture Resource Development Fund, created in Section 4-18-106;

9315 (ii) Utah Rural Rehabilitation Fund, created in Section [~~4-19-4~~] 4-19-105;

9316 (iii) Petroleum Storage Tank Trust Fund, created in Section 19-6-409;

9317 (iv) Olene Walker Housing Loan Fund, created in Section 35A-8-502; and

9318 (v) Brownfields Fund, created in Section 19-8-120.

9319 (2) (a) Each authorizing agency shall deliver to this officer for the officer's care,
9320 custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents,
9321 and other evidences of indebtedness:

9322 (i) owned or administered by the state or any of its agencies; and

9323 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

9324 (b) This officer shall:

9325 (i) establish systems, programs, and facilities for the care, custody, safekeeping,

9326 collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences
9327 of indebtedness submitted to the officer under this Subsection (2); and

9328 (ii) shall make available updated reports to each authorizing agency as to the status of
9329 loans under their authority.

9330 (3) The officer described in Section [63B-1b-201](#) shall deliver to the officer described in
9331 Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by the officer
9332 described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and other
9333 evidences of indebtedness closed as provided in Subsection [63B-1b-201](#)(2)(b).

9334 Section 410. Section **63E-1-102** is amended to read:

9335 **63E-1-102. Definitions -- List of independent entities.**

9336 As used in this title:

9337 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

9338 (2) "Committee" means the Retirement and Independent Entities Committee created by
9339 Section [63E-1-201](#).

9340 (3) "Independent corporation" means a corporation incorporated in accordance with
9341 Chapter 2, Independent Corporations Act.

9342 (4) (a) "Independent entity" means an entity having a public purpose relating to the
9343 state or its citizens that is individually created by the state or is given by the state the right to
9344 exist and conduct its affairs as an:

9345 (i) independent state agency; or

9346 (ii) independent corporation.

9347 (b) "Independent entity" includes the:

9348 (i) Utah Dairy Commission created by Section [~~4-22-2~~] [4-22-103](#);

9349 (ii) Heber Valley Historic Railroad Authority created by Section [63H-4-102](#);

9350 (iii) Utah State Railroad Museum Authority created by Section [63H-5-102](#);

9351 (iv) Utah Housing Corporation created by Section [63H-8-201](#);

9352 (v) Utah State Fair Corporation created by Section [63H-6-103](#);

9353 (vi) Workers' Compensation Fund created by Section [31A-33-102](#);

- 9354 (vii) Utah State Retirement Office created by Section [49-11-201](#);
- 9355 (viii) School and Institutional Trust Lands Administration created by Section
- 9356 [53C-1-201](#);
- 9357 (ix) School and Institutional Trust Fund Office created by Section [53D-1-201](#);
- 9358 (x) Utah Communications Authority created by Section [~~[63N-6-201](#)~~] [63H-7a-201](#);
- 9359 (xi) Utah Energy Infrastructure Authority created by Section [63H-2-201](#);
- 9360 (xii) Utah Capital Investment Corporation created by Section [63N-6-301](#); and
- 9361 (xiii) Military Installation Development Authority created by Section [63H-1-201](#).
- 9362 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
- 9363 (i) the Public Service Commission of Utah created by Section [54-1-1](#);
- 9364 (ii) an institution within the state system of higher education;
- 9365 (iii) a city, county, or town;
- 9366 (iv) a local school district;
- 9367 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 9368 Districts; or
- 9369 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- 9370 (5) "Independent state agency" means an entity that is created by the state, but is
- 9371 independent of the governor's direct supervisory control.
- 9372 (6) "Money held in trust" means money maintained for the benefit of:
- 9373 (a) one or more private individuals, including public employees;
- 9374 (b) one or more public or private entities; or
- 9375 (c) the owners of a quasi-public corporation.
- 9376 (7) "Public corporation" means an artificial person, public in ownership, individually
- 9377 created by the state as a body politic and corporate for the administration of a public purpose
- 9378 relating to the state or its citizens.
- 9379 (8) "Quasi-public corporation" means an artificial person, private in ownership,
- 9380 individually created as a corporation by the state, which has accepted from the state the grant of
- 9381 a franchise or contract involving the performance of a public purpose relating to the state or its

9382 citizens.

9383 Section 411. Section **63I-4a-102** is amended to read:

9384 **63I-4a-102. Definitions.**

9385 (1) (a) "Activity" means to provide a good or service.

9386 (b) "Activity" includes to:

9387 (i) manufacture a good or service;

9388 (ii) process a good or service;

9389 (iii) sell a good or service;

9390 (iv) offer for sale a good or service;

9391 (v) rent a good or service;

9392 (vi) lease a good or service;

9393 (vii) deliver a good or service;

9394 (viii) distribute a good or service; or

9395 (ix) advertise a good or service.

9396 (2) (a) Except as provided in Subsection (2)(b), "agency" means:

9397 (i) the state; or

9398 (ii) an entity of the state including a department, office, division, authority,
9399 commission, or board.

9400 (b) "Agency" does not include:

9401 (i) the Legislature;

9402 (ii) an entity or agency of the Legislature;

9403 (iii) the state auditor;

9404 (iv) the state treasurer;

9405 (v) the Office of the Attorney General;

9406 (vi) the Utah Dairy Commission created in Section [~~4-22-2~~] [4-22-103](#);

9407 (vii) the Heber Valley Historic Railroad Authority created in Section [63H-4-102](#);

9408 (viii) the Utah State Railroad Museum Authority created in Section [63H-5-102](#);

9409 (ix) the Utah Housing Corporation created in Section [63H-8-201](#);

- 9410 (x) the Utah State Fair Corporation created in Section 63H-6-103;
- 9411 (xi) the Workers' Compensation Fund created in Section 31A-33-102;
- 9412 (xii) the Utah State Retirement Office created in Section 49-11-201;
- 9413 (xiii) a charter school chartered by the State Charter School Board or a board of
- 9414 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 9415 Schools Act;
- 9416 (xiv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
- 9417 Utah Schools for the Deaf and the Blind;
- 9418 (xv) an institution of higher education as defined in Section 53B-3-102;
- 9419 (xvi) the School and Institutional Trust Lands Administration created in Section
- 9420 53C-1-201;
- 9421 (xvii) the Utah Communications Authority created in Section 63H-7a-201; or
- 9422 (xviii) the Utah Capital Investment Corporation created in Section 63N-6-301.
- 9423 (3) "Agency head" means the chief administrative officer of an agency.
- 9424 (4) "Board" means the Free Market Protection and Privatization Board created in
- 9425 Section 63I-4a-202.
- 9426 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
- 9427 or in part from a private enterprise.
- 9428 (6) "Local entity" means:
- 9429 (a) a political subdivision of the state, including a:
- 9430 (i) county;
- 9431 (ii) city;
- 9432 (iii) town;
- 9433 (iv) local school district;
- 9434 (v) local district; or
- 9435 (vi) special service district;
- 9436 (b) an agency of an entity described in this Subsection (6), including a department,
- 9437 office, division, authority, commission, or board; or

9438 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
9439 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

9440 (7) "Private enterprise" means a person that engages in an activity for profit.

9441 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
9442 private enterprise engages in the activity, including a transfer by:

9443 (a) contract;

9444 (b) transfer of property; or

9445 (c) another arrangement.

9446 (9) "Special district" means:

9447 (a) a local district, as defined in Section 17B-1-102;

9448 (b) a special service district, as defined in Section 17D-1-102; or

9449 (c) a conservation district, as defined in Section 17D-3-102.

9450 Section 412. Section 63J-7-102 is amended to read:

9451 **63J-7-102. Scope and applicability of chapter.**

9452 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
9453 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
9454 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

9455 (2) This chapter does not govern:

9456 (a) a grant deposited into a General Fund restricted account;

9457 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

9458 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

9459 (d) a grant made to the state without a restriction or other designated purpose that is
9460 deposited into the General Fund as free revenue;

9461 (e) a grant made to the state that is restricted only to "education" and that is deposited
9462 into the Education Fund or Uniform School Fund as free revenue;

9463 (f) in-kind donations;

9464 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
9465 when required by state law or application of state law;

- 9466 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
9467 Contribution Act;
- 9468 (i) a grant received by an agency from another agency or political subdivision;
9469 (j) a grant to the Utah Dairy Commission created in Section [~~4-22-2~~] [4-22-103](#);
9470 (k) a grant to the Heber Valley Historic Railroad Authority created in Section
9471 [63H-4-102](#);
- 9472 (l) a grant to the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
9473 (m) a grant to the Utah Housing Corporation created in Section [63H-8-201](#);
9474 (n) a grant to the Utah State Fair Corporation created in Section [63H-6-103](#);
9475 (o) a grant to the Workers' Compensation Fund created in Section [31A-33-102](#);
9476 (p) a grant to the Utah State Retirement Office created in Section [49-11-201](#);
9477 (q) a grant to the School and Institutional Trust Lands Administration created in
9478 Section [53C-1-201](#);
- 9479 (r) a grant to the Utah Communications Authority created in Section [63H-7a-201](#);
9480 (s) a grant to the Medical Education Program created in Section [53B-24-202](#);
9481 (t) a grant to the Utah Capital Investment Corporation created in Section [63N-6-301](#);
9482 (u) a grant to the Utah Charter School Finance Authority created in Section
9483 [53A-20b-103](#);
- 9484 (v) a grant to the State Building Ownership Authority created in Section [63B-1-304](#);
9485 (w) a grant to the Utah Comprehensive Health Insurance Pool created in Section
9486 [31A-29-104](#); or
- 9487 (x) a grant to the Military Installation Development Authority created in Section
9488 [63H-1-201](#).
- 9489 (3) An agency need not seek legislative review or approval of grants under Part 2,
9490 Grant Approval Requirements, if:
- 9491 (a) the governor has declared a state of emergency; and
9492 (b) the grant is donated to the agency to assist victims of the state of emergency under
9493 Subsection [53-2a-204](#)(1).

9494 Section 413. Section **63L-8-403** is amended to read:

9495 **63L-8-403. Grazing permits and leases.**

9496 (1) (a) Except as provided in Subsection (2), permits and leases for domestic livestock
9497 grazing on public land issued by the director may not exceed a term of five years, subject to
9498 terms and conditions the director determines to be appropriate and consistent with this chapter.

9499 (b) The director shall have authority to cancel, suspend, or modify a grazing permit or
9500 lease, in whole or in part:

9501 (i) pursuant to the terms and conditions of the permit or lease;

9502 (ii) for any violation of:

9503 (A) this chapter or a grazing rule implemented under this chapter; or

9504 (B) any term or condition of the grazing permit or lease; or

9505 (iii) to protect rangeland health from overutilization pursuant to Subsection (7).

9506 (2) The holder of an expiring permit or lease shall be given first priority for receipt of
9507 the new permit or lease, provided:

9508 (a) the land for which the permit or lease is issued remains available for domestic
9509 livestock grazing in accordance with a land use plan prepared pursuant to Section [63L-8-202](#);

9510 (b) the permittee or lessee is in compliance with:

9511 (i) the provisions of this chapter and the grazing rules issued by the DLM, in
9512 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

9513 (ii) the terms and conditions in the permit or lease specified by the director;

9514 (c) the permittee or lessee accepts the terms and conditions included by the director in
9515 the new permit or lease; and

9516 (d) range conditions on the tract of public land are sufficient to support continued
9517 livestock grazing, as determined by the director pursuant to Subsection (7).

9518 (3) All permits and leases for domestic livestock grazing issued under this part may be
9519 incorporated in an allotment management plan developed by the director.

9520 (4) (a) If the director elects to develop an allotment management plan for a given area,
9521 the director shall do so in consultation, cooperation, and coordination with:

- 9522 (i) the lessees, permittees, and landowners involved;
9523 (ii) the commissioner;
9524 (iii) the State Grazing Advisory Board established under Section [~~4-20-1.5~~] [4-20-103](#);
9525 and
9526 (iv) the political subdivision having land within the area covered by the proposed
9527 allotment management plan.
- 9528 (b) An allotment management plan shall be:
9529 (i) tailored to the specific range condition of the area covered by the plan; and
9530 (ii) reviewed on a periodic basis to determine:
9531 (A) the efficacy of the plan in improving range conditions on the involved land; and
9532 (B) whether the land can be better managed.
- 9533 (5) The director may revise or terminate plans, or develop new plans, after review and
9534 consideration, consultation, cooperation, and coordination with the parties listed in Subsection
9535 (4)(a).
- 9536 (6) (a) In all cases where the director has not completed an allotment management plan
9537 or determines that an allotment management plan is not necessary for management of livestock
9538 operations, the director shall incorporate in grazing permits and leases all necessary terms and
9539 conditions for the appropriate management of the permitted or leased land.
- 9540 (b) The director, in consultation with the commissioner:
9541 (i) shall specify the number of animals to be grazed and the seasons of use; and
9542 (ii) may reexamine the condition of the range and forage utilization at any time.
- 9543 (7) If the director finds that the condition of the range requires adjustment in the
9544 amount or other aspect of grazing use, the permittee or lessee shall adjust the permittee or
9545 lessee's use to the extent required by the director.
- 9546 (8) An allotment management plan may not refer to livestock operations or range
9547 improvements on non-public land, except where the non-public land is intermingled with
9548 public land and the consent of the owner of the non-public land and the permittee or lessee
9549 involved with the plan is obtained.

9550 (9) (a) Whenever a permit or lease for grazing domestic livestock on public land is
9551 canceled, in whole or in part, in order to devote the land covered by the permit or lease to
9552 another public purpose, the permittee or lessee shall receive from the state reasonable
9553 compensation for the adjusted value, to be determined by the director, of the permittee's or
9554 lessee's interest in authorized permanent improvements placed or constructed by the permittee
9555 or lessee on lands covered by such permit or lease.

9556 (b) The compensation described in Subsection (9)(a) may not exceed the fair market
9557 value of the terminated portion of the permittee's or lessee's interest.

9558 (10) Except in cases of emergency, no permit or lease shall be canceled under this
9559 subsection without one year's notification.

9560 Section 414. Section **72-7-401** is amended to read:

9561 **72-7-401. Application of size, weight, and load limitations for vehicles --**
9562 **Exceptions.**

9563 (1) (a) Except as provided in Subsection (2), the maximum size, weight, and load
9564 limitations on vehicles under this part apply to all highways throughout the state.

9565 (b) Local authorities may not alter the limitations except as expressly provided under
9566 Sections [41-6a-204](#) and [72-7-408](#).

9567 (2) Except as specifically made applicable, the size, weight, and load limitations in this
9568 chapter do not apply to:

9569 (a) fire-fighting apparatus;

9570 (b) highway construction and maintenance equipment being operated at the site of
9571 maintenance or at a construction project as authorized by a highway authority;

9572 (c) highway construction and maintenance equipment temporarily being operated
9573 between a material site and a highway maintenance site or a highway construction project if:

9574 (i) the section of any highway being used is not located within a county of the first or
9575 second class;

9576 (ii) authorized for a specific highway project by the highway authority having
9577 jurisdiction over each highway being used;

9578 (iii) the distance between the material site and maintenance site or highway
9579 construction project does not exceed 10 miles; and

9580 (iv) the operator carries in the vehicle written verification of the authorization from the
9581 highway authority having jurisdiction over each highway being used;

9582 (d) implements of husbandry incidentally moved on a highway while engaged in an
9583 agricultural operation or incidentally moved for repair or servicing, subject to the provisions of
9584 Section 72-7-407;

9585 (e) vehicles transporting logs or poles from forest to sawmill:

9586 (i) when required to move upon a highway other than the national system of interstate
9587 and defense highways;

9588 (ii) if the gross vehicle weight does not exceed 80,000 pounds; and

9589 (iii) the vehicle or combination of vehicles are in compliance with Subsections
9590 72-7-404(1) and (2)(a); and

9591 (f) tow trucks or towing vehicles under emergency conditions when:

9592 (i) it becomes necessary to move a vehicle, combination of vehicles, special mobile
9593 equipment, or objects to the nearest safe area for parking or temporary storage;

9594 (ii) no other alternative is available; and

9595 (iii) the movement is for the safety of the traveling public.

9596 (3) (a) Except when operating on the national system of interstate and defense
9597 highways, a motor vehicle carrying livestock as defined in Section ~~[4-1-8]~~ 4-1-109, or a motor
9598 vehicle carrying raw grain if the grain is being transported by the farmer from his farm to
9599 market prior to bagging, weighing, or processing, may exceed by up to 2,000 pounds the
9600 tandem axle weight limitations specified under Section 72-7-404 without obtaining an
9601 overweight permit under Section 72-7-406.

9602 (b) Subsection (3)(a) is an exception to Sections 72-7-404 and 72-7-406.

9603 Section 415. Section 72-9-502 is amended to read:

9604 **72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions --**
9605 **Rulemaking -- By-pass permits.**

(1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross vehicle weight of 10,001 pounds or more or any motor vehicle carrying livestock as defined in Section ~~[4-24-2]~~ [4-24-102](#) shall stop at a port-of-entry as required under this section.

(2) The department may erect and maintain signs directing motor vehicles to a port-of-entry as provided in this section.

(3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt from this section if:

(a) the total one-way trip distance for the motor vehicle would be increased by more than 5% or three miles, whichever is greater if diverted to a port-of-entry; or

(b) the motor vehicle is operating under a temporary port-of-entry by-pass permit issued under Subsection (4).

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of a temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of Subsection (1) if the department determines that the permit is needed to accommodate highway transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.

(b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a motor carrier for multiple motor vehicles.

Section 416. Section **73-20-2** is amended to read:

73-20-2. Definitions.

As used in this ~~[act]~~ chapter:

(1) "Advisory board" means the Agricultural Advisory Board created by Section ~~[4-2-7]~~ [4-2-108](#).

~~[(5)]~~ (2) "Basic livestock" means a herd of cattle, sheep, or swine kept and maintained primarily for breeding purposes.

~~[(2)]~~ (3) "Board" means the Board of Water Resources created by Section [73-10-1.5](#).

~~[(3)]~~ (4) "Commercial farm" means a tract or tracts of land with or without improvements recognized as a farm or ranch in this state which is owned and operated or

9634 leased and operated by the applicant, and used in the production and raising of basic livestock.

9635 ~~[(4)]~~ (5) "Farmer" means any person who owns and operates or leases and operates a
9636 commercial farm in this state, and includes individuals, partnerships and corporations.

9637 Section 417. Section **76-6-111** is amended to read:

9638 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**
9639 **Seizure and disposition of property.**

9640 (1) As used in this section:

9641 (a) "Law enforcement officer" means the same as that term is defined in Section
9642 [53-13-103](#).

9643 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,
9644 including:

9645 (i) cattle;

9646 (ii) sheep;

9647 (iii) goats;

9648 (iv) swine;

9649 (v) horses;

9650 (vi) mules;

9651 (vii) poultry; and

9652 (viii) domesticated elk as defined in Section [4-39-102](#).

9653 (2) Unless authorized by Section [~~4-25-4, 4-25-5, 4-25-14,~~] [4-25-201, 4-25-202,](#)
9654 [4-25-402, 4-39-401](#), or [18-1-3](#), a person is guilty of wanton destruction of livestock if that
9655 person:

9656 (a) injures, physically alters, releases, or causes the death of livestock; and

9657 (b) does so:

9658 (i) intentionally or knowingly; and

9659 (ii) without the permission of the owner of the livestock.

9660 (3) Wanton destruction of livestock is punishable as a:

9661 (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

9662 (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but
9663 does not exceed \$1,500;

9664 (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but
9665 does not exceed \$5,000; and

9666 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.

9667 (4) When a court orders a person who is convicted of wanton destruction of livestock
9668 to pay restitution under Title 77, Chapter 38a, Crime Victims Restitution Act, the court shall
9669 consider, in addition to the restitution criteria in Section [77-38a-302](#), the restitution guidelines
9670 in Subsection (5) when setting the amount.

9671 (5) The minimum restitution value for cattle and sheep is the sum of the following,
9672 unless the court states on the record why it finds the sum to be inappropriate:

9673 (a) the fair market value of the animal, using as a guide the market information
9674 obtained from the Department of Agriculture and Food created under Section [\[4-2-1\] 4-2-102](#);
9675 and

9676 (b) 10 years times the average annual value of offspring, for which average annual
9677 value is determined using data obtained from the National Agricultural Statistics Service within
9678 the United States Department of Agriculture, for the most recent 10-year period available.

9679 (6) A material, device, or vehicle used in violation of Subsection (2) is subject to
9680 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
9681 and Disposition of Property Act.

9682 (7) A peace officer may seize a material, device, or vehicle used in violation of
9683 Subsection (2):

9684 (a) upon notice and service of process issued by a court having jurisdiction over the
9685 property; or

9686 (b) without notice and service of process if:

9687 (i) the seizure is incident to an arrest under:

9688 (A) a search warrant; or

9689 (B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

(8) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

(i) place the property under seal;

(ii) remove the property to a place designated by the warrant under which it was seized;

or

(iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Section 418. Section **78B-4-202** is amended to read:

78B-4-202. Equine and livestock activity liability limitations.

(1) It shall be presumed that participants in equine or livestock activities are aware of and understand that there are inherent risks associated with these activities.

(2) An equine activity sponsor, equine professional, livestock activity sponsor, or livestock professional is not liable for an injury to or the death of a participant due to the inherent risks associated with these activities, unless the sponsor or professional:

(a) (i) provided the equipment or tack;

(ii) the equipment or tack caused the injury; and

(iii) the equipment failure was due to the sponsor's or professional's negligence;

(b) failed to make reasonable efforts to determine whether the equine or livestock could behave in a manner consistent with the activity with the participant;

(c) owns, leases, rents, or is in legal possession and control of land or facilities upon which the participant sustained injuries because of a dangerous condition which was known to or should have been known to the sponsor or professional and for which warning signs have

9718 not been conspicuously posted;

9719 (d) (i) commits an act or omission that constitutes negligence, gross negligence, or
9720 willful or wanton disregard for the safety of the participant; and

9721 (ii) that act or omission causes the injury; or

9722 (e) intentionally injures or causes the injury to the participant.

9723 (3) This chapter does not prevent or limit the liability of an equine activity sponsor, an
9724 equine professional, a livestock activity sponsor, or a livestock professional who is:

9725 (a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an
9726 action to recover for damages incurred in the course of providing professional treatment of an
9727 equine;

9728 (b) liable under Title 4, Chapter 25, [~~Estraying and Trespassing Animals~~] Estrays; or

9729 (c) liable under Title 78B, Chapter 6, Part 7, Utah Product Liability Act.

9730 Section 419. **Repealer.**

9731 This bill repeals:

9732 Section **4-11-15, Wax-salvage operations -- County bee inspector to supervise**
9733 **compliance with rules -- Salvage procedures specified.**

9734 Section **4-18-109, Public lands wildfire study and analysis -- Report.**

9735 Section **4-25-10, Bulls -- Number required on range during breeding season.**

9736 Section **4-25-11, Determination and enforcement of bull running policy by range**
9737 **association.**

9738 Section **4-31-117, State chemist -- Assistance in diagnosis of disease.**

9739 Section **4-36-1, Compact enacted and entered into.**

9740 Section **4-36-2, Cooperation with Pest Control Insurance Fund.**

9741 Section **4-36-3, Filing of compact.**

9742 Section **4-36-4, Compact administrator.**

9743 Section **4-36-5, Applications for assistance.**

9744 Section **4-36-6, Disposition of money from compact insurance fund.**

9745 Section **4-36-7, Executive head defined.**

9746 Section 420. **Effective date.**

9747 This bill takes effect on July 1, 2017.

9748 Section 421. **Coordinating H.B. 344 with H.B. 58 -- Substantive and technical**
9749 **amendments.**

9750 If this H.B. 344 and H.B. 58, Direct Food Sales Amendments, both pass and become
9751 law, it is the intent of the Legislature that the Office of Legislative Research and General
9752 Counsel, in preparing the Utah Code database for publication on July 1, 2017, by merging all
9753 of the changes from Section 4-5-9.5 in H.B. 58 into the newly renumbered Section 4-5-501 in
9754 H.B. 344.

9755 Section 422. **Coordinating H.B. 344 with H.B. 182 -- Substantive and technical**
9756 **amendments.**

9757 If this H.B. 344 and H.B. 182, Labeling Requirements for Types of Retail Goods, both
9758 pass and become law, it is the intent of the Legislature that the Office of Legislative Research
9759 and General Counsel, in preparing the Utah Code database for publication on July 1, 2017 by:

9760 (1) merging all of the changes from Section 4-10-9 in H.B. 182 into the newly
9761 renumbered Section 4-10-110; and

9762 (2) modifying the cross-reference in Subsection 4-10-9(2) from "4-10-7" to "4-10-107."

9763 Section 423. **Coordinating H.B. 344 with H.B. 280 -- Substantive and technical**
9764 **amendments.**

9765 If this H.B. 344 and H.B. 280, Agriculture Regulation Preemption Amendments, both
9766 pass and become law, it is the intent of the Legislature that the Office of Legislative Research
9767 and General Counsel, in preparing the Utah Code database for publication on July 1, 2017,
9768 renumber Section 4-2-16 in H.B. 280 to Section 4-2-305.