

UTAH AGRICULTURE CODE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

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



- 28 damages inflicted by the animal;
- 29 ▶ 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- 32 ▶ strikes outdated language; and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 **Utah Code Sections Affected:**

39 **AMENDS:**

- 40 **4-2-401**, as enacted by Laws of Utah 2014, Chapter 41
- 41 **4-2-402**, as last amended by Laws of Utah 2016, Chapter 18
- 42 **4-2-501**, as enacted by Laws of Utah 2015, Chapter 128
- 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 **4-18-101**, as renumbered and amended by Laws of Utah 2013, Chapter 227
- 48 **4-18-102**, as last amended by Laws of Utah 2014, Chapter 383
- 49 **4-18-103**, as last amended by Laws of Utah 2014, Chapter 383
- 50 **4-18-104**, as renumbered and amended by Laws of Utah 2013, Chapter 227
- 51 **4-18-105**, as last amended by Laws of Utah 2016, Chapter 19
- 52 **4-18-106**, as last amended by Laws of Utah 2016, Chapter 19
- 53 **4-18-107**, as last amended by Laws of Utah 2014, Chapter 383
- 54 **4-18-108**, as renumbered and amended by Laws of Utah 2014, Chapters 189 and 383
- 55 **4-26-101**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 56 **4-26-102**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 57 **4-26-103**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 58 **4-26-104**, as enacted by Laws of Utah 2016, Chapter 18

- 59 **4-31-105**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 60 **4-31-106**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 61 **4-31-107**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 62 **4-31-108**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 63 **4-31-109.1**, as enacted by Laws of Utah 2015, Chapter 414
- 64 **4-31-113**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 65 **4-31-114**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 66 **4-31-115**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 67 **4-31-116**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 68 **4-39-102**, as enacted by Laws of Utah 1997, Chapter 302
- 69 **4-39-104**, as last amended by Laws of Utah 2016, Chapter 19
- 70 **4-39-107**, as enacted by Laws of Utah 1997, Chapter 302
- 71 **4-39-108**, as enacted by Laws of Utah 1997, Chapter 302
- 72 **4-39-201**, as last amended by Laws of Utah 2010, Chapter 378
- 73 **4-39-202**, as enacted by Laws of Utah 1997, Chapter 302
- 74 **4-39-203**, as last amended by Laws of Utah 2009, Chapter 183
- 75 **4-39-205**, as last amended by Laws of Utah 2010, Chapter 378
- 76 **4-39-206**, as last amended by Laws of Utah 2010, Chapter 378
- 77 **4-39-207**, as enacted by Laws of Utah 1997, Chapter 302
- 78 **4-39-301**, as enacted by Laws of Utah 1997, Chapter 302
- 79 **4-39-304**, as last amended by Laws of Utah 2010, Chapter 378
- 80 **4-39-305**, as last amended by Laws of Utah 2010, Chapter 378
- 81 **4-39-306**, as last amended by Laws of Utah 2010, Chapter 378
- 82 **4-39-401**, as last amended by Laws of Utah 2014, Chapter 189
- 83 **4-39-402**, as enacted by Laws of Utah 1997, Chapter 302
- 84 **4-40-102**, as renumbered and amended by Laws of Utah 2011, Chapter 124
- 85 **4-41-103**, as enacted by Laws of Utah 2014, Chapter 25
- 86 **10-8-85.8**, as enacted by Laws of Utah 2007, Chapter 146
- 87 **11-38-302**, as last amended by Laws of Utah 2009, Chapters 344 and 368
- 88 **17-50-323**, as enacted by Laws of Utah 2007, Chapter 146
- 89 **17D-3-102**, as last amended by Laws of Utah 2013, Chapter 227

- 90 **23-13-19**, as enacted by Laws of Utah 2009, Chapter 308
- 91 **23-24-1**, as last amended by Laws of Utah 2011, Chapter 297
- 92 **26-15-1**, as last amended by Laws of Utah 2007, Chapter 146
- 93 **58-37c-19.5**, as last amended by Laws of Utah 2013, Chapters 262 and 413
- 94 **63A-3-205**, as last amended by Laws of Utah 2014, Chapter 227
- 95 **63B-1b-102**, as last amended by Laws of Utah 2014, Chapter 227
- 96 **63B-1b-202**, as last amended by Laws of Utah 2014, Chapters 203 and 227
- 97 **63E-1-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
- 98 **63I-4a-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
- 99 **63J-7-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
- 100 **63L-8-403**, as enacted by Laws of Utah 2016, Chapter 317
- 101 **72-7-401**, as last amended by Laws of Utah 2005, Chapter 2
- 102 **72-9-502**, as last amended by Laws of Utah 2008, Chapter 382
- 103 **73-20-2**, as last amended by Laws of Utah 1994, Chapter 12
- 104 **76-6-111**, as last amended by Laws of Utah 2015, Chapters 172 and 258
- 105 **78B-4-202**, as last amended by Laws of Utah 2015, Chapter 258

106 ENACTS:

- 107 **4-2-101**, Utah Code Annotated 1953
- 108 **4-3-101**, Utah Code Annotated 1953
- 109 **4-9-101**, Utah Code Annotated 1953
- 110 **4-18-201**, Utah Code Annotated 1953
- 111 **4-19-101**, Utah Code Annotated 1953
- 112 **4-20-102**, Utah Code Annotated 1953
- 113 **4-22-101**, Utah Code Annotated 1953
- 114 **4-25-101**, Utah Code Annotated 1953
- 115 **4-30-101**, Utah Code Annotated 1953
- 116 **4-34-101**, Utah Code Annotated 1953

117 RENUMBERS AND AMENDS:

- 118 **4-1-101**, (Renumbered from 4-1-1, as enacted by Laws of Utah 1979, Chapter 2)
- 119 **4-1-102**, (Renumbered from 4-1-2, as enacted by Laws of Utah 1979, Chapter 2)
- 120 **4-1-103**, (Renumbered from 4-1-3, as enacted by Laws of Utah 1979, Chapter 2)

121 **4-1-104**, (Renumbered from 4-1-3.5, as last amended by Laws of Utah 2008, Chapter
122 382)
123 **4-1-105**, (Renumbered from 4-1-4, as last amended by Laws of Utah 2008, Chapter
124 156)
125 **4-1-106**, (Renumbered from 4-1-5, as last amended by Laws of Utah 1987, Chapter
126 161)
127 **4-1-107**, (Renumbered from 4-1-6, as last amended by Laws of Utah 1985, Chapter
128 130)
129 **4-1-108**, (Renumbered from 4-1-7, as last amended by Laws of Utah 2010, Chapter
130 378)
131 **4-1-109**, (Renumbered from 4-1-8, as last amended by Laws of Utah 2010, Chapter
132 324)
133 **4-1-110**, (Renumbered from 4-1-9, as enacted by Laws of Utah 2012, Chapter 401)
134 **4-2-102**, (Renumbered from 4-2-1, as last amended by Laws of Utah 1997, Chapter 82)
135 **4-2-103**, (Renumbered from 4-2-2, as last amended by Laws of Utah 2011, Chapter
136 383)
137 **4-2-104**, (Renumbered from 4-2-3, as last amended by Laws of Utah 2002, Chapter
138 176)
139 **4-2-105**, (Renumbered from 4-2-4, as last amended by Laws of Utah 1987, Chapter 15)
140 **4-2-106**, (Renumbered from 4-2-5, as enacted by Laws of Utah 1979, Chapter 2)
141 **4-2-107**, (Renumbered from 4-2-6, as last amended by Laws of Utah 1984, Chapter 67)
142 **4-2-108**, (Renumbered from 4-2-7, as last amended by Laws of Utah 2016, Chapter 19)
143 **4-2-109**, (Renumbered from 4-2-8, as last amended by Laws of Utah 2011, Chapter
144 383)
145 **4-2-201**, (Renumbered from 4-2-9, as last amended by Laws of Utah 1997, Chapters 10
146 and 81)
147 **4-2-202**, (Renumbered from 4-2-10, as last amended by Laws of Utah 2007, Chapter
148 179)
149 **4-2-301**, (Renumbered from 4-2-11, as last amended by Laws of Utah 2013, Chapter
150 237)
151 **4-2-302**, (Renumbered from 4-2-12, as last amended by Laws of Utah 1996, Chapter

152 79)
153 **4-2-303**, (Renumbered from 4-2-14, as enacted by Laws of Utah 1985, Chapter 104)
154 **4-2-304**, (Renumbered from 4-2-15, as last amended by Laws of Utah 2010, Chapter
155 378)
156 **4-3-102**, (Renumbered from 4-3-1, as last amended by Laws of Utah 2015, Chapter
157 112)
158 **4-3-201**, (Renumbered from 4-3-2, as last amended by Laws of Utah 2008, Chapter
159 382)
160 **4-3-202**, (Renumbered from 4-3-3, as enacted by Laws of Utah 1979, Chapter 2)
161 **4-3-203**, (Renumbered from 4-3-4, as last amended by Laws of Utah 2007, Chapter
162 179)
163 **4-3-204**, (Renumbered from 4-3-5, as enacted by Laws of Utah 1979, Chapter 2)
164 **4-3-205**, (Renumbered from 4-3-6, as enacted by Laws of Utah 1979, Chapter 2)
165 **4-3-206**, (Renumbered from 4-3-7, as last amended by Laws of Utah 2007, Chapter
166 179)
167 **4-3-301**, (Renumbered from 4-3-8, as last amended by Laws of Utah 2007, Chapter
168 179)
169 **4-3-302**, (Renumbered from 4-3-9, as last amended by Laws of Utah 1987, Chapter
170 161)
171 **4-3-401**, (Renumbered from 4-3-10, as last amended by Laws of Utah 2015, Chapter
172 112)
173 **4-3-402**, (Renumbered from 4-3-11, as last amended by Laws of Utah 2001, Chapter
174 87)
175 **4-3-403**, (Renumbered from 4-3-12, as enacted by Laws of Utah 1979, Chapter 2)
176 **4-3-501**, (Renumbered from 4-3-1.3, as enacted by Laws of Utah 2015, Chapter 112)
177 **4-3-502**, (Renumbered from 4-3-13, as last amended by Laws of Utah 2015, Chapter
178 112)
179 **4-3-503**, (Renumbered from 4-3-14, as last amended by Laws of Utah 2016, Chapter
180 402)
181 **4-4-101**, (Renumbered from 4-4-1, as enacted by Laws of Utah 1979, Chapter 2)
182 **4-4-102**, (Renumbered from 4-4-2, as last amended by Laws of Utah 2008, Chapter

183 382)
184 [4-4-103](#), (Renumbered from 4-4-3, as enacted by Laws of Utah 1979, Chapter 2)
185 [4-4-104](#), (Renumbered from 4-4-4, as last amended by Laws of Utah 2007, Chapter
186 179)
187 [4-4-105](#), (Renumbered from 4-4-5, as enacted by Laws of Utah 1979, Chapter 2)
188 [4-4-106](#), (Renumbered from 4-4-6, as enacted by Laws of Utah 1979, Chapter 2)
189 [4-5-101](#), (Renumbered from 4-5-1, as last amended by Laws of Utah 1990, Chapter
190 157)
191 [4-5-102](#), (Renumbered from 4-5-2, as last amended by Laws of Utah 2007, Chapter
192 146)
193 [4-5-103](#), (Renumbered from 4-5-7, as last amended by Laws of Utah 2010, Chapter
194 378)
195 [4-5-104](#), (Renumbered from 4-5-17, as last amended by Laws of Utah 2007, Chapter
196 179)
197 [4-5-105](#), (Renumbered from 4-5-18, as last amended by Laws of Utah 2010, Chapter
198 378)
199 [4-5-106](#), (Renumbered from 4-5-19, as last amended by Laws of Utah 1990, Chapter
200 157)
201 [4-5-201](#), (Renumbered from 4-5-8, as last amended by Laws of Utah 2010, Chapter
202 378)
203 [4-5-202](#), (Renumbered from 4-5-5, as last amended by Laws of Utah 2010, Chapter
204 378)
205 [4-5-203](#), (Renumbered from 4-5-10, as last amended by Laws of Utah 2007, Chapter
206 179)
207 [4-5-204](#), (Renumbered from 4-5-11, as last amended by Laws of Utah 1990, Chapter
208 157)
209 [4-5-205](#), (Renumbered from 4-5-15, as last amended by Laws of Utah 2010, Chapter
210 378)
211 [4-5-206](#), (Renumbered from 4-5-16, as last amended by Laws of Utah 1990, Chapter
212 157)
213 [4-5-207](#), (Renumbered from 4-5-6, as last amended by Laws of Utah 2007, Chapter

214 179)
215 **4-5-301**, (Renumbered from 4-5-9, as last amended by Laws of Utah 2010, Chapter
216 378)
217 **4-5-401**, (Renumbered from 4-5-3, as last amended by Laws of Utah 2004, Chapter
218 358)
219 **4-5-402**, (Renumbered from 4-5-4, as last amended by Laws of Utah 1985, Chapter
220 104)
221 **4-5-501**, (Renumbered from 4-5-9.5, as last amended by Laws of Utah 2008, Chapter
222 382)
223 **4-5-502**, (Renumbered from 4-5-20, as enacted by Laws of Utah 2011, Chapter 156)
224 **4-7-101**, (Renumbered from 4-7-1, as last amended by Laws of Utah 2011, Chapter
225 383)
226 **4-7-102**, (Renumbered from 4-7-2, as last amended by Laws of Utah 2011, Chapter
227 383)
228 **4-7-103**, (Renumbered from 4-7-3, as last amended by Laws of Utah 2016, Chapter 18)
229 **4-7-104**, (Renumbered from 4-7-4, as last amended by Laws of Utah 1990, Chapter 25)
230 **4-7-105**, (Renumbered from 4-7-5, as last amended by Laws of Utah 2011, Chapter
231 383)
232 **4-7-106**, (Renumbered from 4-7-6, as last amended by Laws of Utah 1995, Chapter 41)
233 **4-7-107**, (Renumbered from 4-7-7, as last amended by Laws of Utah 2011, Chapter
234 383)
235 **4-7-108**, (Renumbered from 4-7-8, as last amended by Laws of Utah 2011, Chapter
236 383)
237 **4-7-109**, (Renumbered from 4-7-9, as last amended by Laws of Utah 2011, Chapter
238 383)
239 **4-7-110**, (Renumbered from 4-7-10, as last amended by Laws of Utah 2011, Chapter
240 383)
241 **4-7-201**, (Renumbered from 4-7-11, as last amended by Laws of Utah 2011, Chapter
242 383)
243 **4-7-202**, (Renumbered from 4-7-12, as last amended by Laws of Utah 2011, Chapter
244 383)

245 **4-7-203**, (Renumbered from 4-7-13, as last amended by Laws of Utah 2011, Chapter
246 383)
247 **4-7-204**, (Renumbered from 4-7-13.5, as enacted by Laws of Utah 1985, Chapter 24)
248 **4-7-205**, (Renumbered from 4-7-14, as last amended by Laws of Utah 2011, Chapter
249 383)
250 **4-8-101**, (Renumbered from 4-8-1, as enacted by Laws of Utah 1979, Chapter 2)
251 **4-8-102**, (Renumbered from 4-8-2, as enacted by Laws of Utah 1979, Chapter 2)
252 **4-8-103**, (Renumbered from 4-8-3, as enacted by Laws of Utah 1979, Chapter 2)
253 **4-8-104**, (Renumbered from 4-8-4, as last amended by Laws of Utah 2010, Chapter
254 324)
255 **4-8-105**, (Renumbered from 4-8-5, as enacted by Laws of Utah 1979, Chapter 2)
256 **4-8-106**, (Renumbered from 4-8-6, as last amended by Laws of Utah 1987, Chapter
257 161)
258 **4-8-107**, (Renumbered from 4-8-7, as last amended by Laws of Utah 2007, Chapter
259 179)
260 **4-9-102**, (Renumbered from 4-9-1, as last amended by Laws of Utah 2004, Chapter
261 358)
262 **4-9-103**, (Renumbered from 4-9-2, as last amended by Laws of Utah 2008, Chapter
263 382)
264 **4-9-104**, (Renumbered from 4-9-3, as last amended by Laws of Utah 2004, Chapter
265 358)
266 **4-9-105**, (Renumbered from 4-9-4, as last amended by Laws of Utah 2004, Chapter
267 358)
268 **4-9-106**, (Renumbered from 4-9-5, as last amended by Laws of Utah 2004, Chapter
269 358)
270 **4-9-107**, (Renumbered from 4-9-5.2, as last amended by Laws of Utah 2004, Chapter
271 358)
272 **4-9-108**, (Renumbered from 4-9-5.3, as last amended by Laws of Utah 2004, Chapter
273 358)
274 **4-9-109**, (Renumbered from 4-9-5.4, as last amended by Laws of Utah 2004, Chapter
275 358)

276 **4-9-110**, (Renumbered from 4-9-6, as last amended by Laws of Utah 2004, Chapter
277 358)
278 **4-9-111**, (Renumbered from 4-9-7, as last amended by Laws of Utah 1990, Chapter
279 157)
280 **4-9-112**, (Renumbered from 4-9-8, as enacted by Laws of Utah 1979, Chapter 2)
281 **4-9-113**, (Renumbered from 4-9-9, as last amended by Laws of Utah 1992, Chapter 30)
282 **4-9-114**, (Renumbered from 4-9-10, as enacted by Laws of Utah 1979, Chapter 2)
283 **4-9-115**, (Renumbered from 4-9-11, as last amended by Laws of Utah 1985, Chapter
284 19)
285 **4-9-116**, (Renumbered from 4-9-12, as last amended by Laws of Utah 2004, Chapter
286 358)
287 **4-9-117**, (Renumbered from 4-9-13, as enacted by Laws of Utah 1979, Chapter 2)
288 **4-9-118**, (Renumbered from 4-9-15, as last amended by Laws of Utah 2010, Chapter
289 378)
290 **4-10-101**, (Renumbered from 4-10-1, as enacted by Laws of Utah 1979, Chapter 2)
291 **4-10-102**, (Renumbered from 4-10-2, as last amended by Laws of Utah 2016, Chapter
292 21)
293 **4-10-103**, (Renumbered from 4-10-3, as last amended by Laws of Utah 2008, Chapter
294 382)
295 **4-10-104**, (Renumbered from 4-10-4, as enacted by Laws of Utah 1979, Chapter 2)
296 **4-10-105**, (Renumbered from 4-10-5, as last amended by Laws of Utah 2016, Chapter
297 21)
298 **4-10-106**, (Renumbered from 4-10-6, as last amended by Laws of Utah 2016, Chapter
299 21)
300 **4-10-107**, (Renumbered from 4-10-7, as last amended by Laws of Utah 2016, Chapter
301 21)
302 **4-10-108**, (Renumbered from 4-10-7.3, as enacted by Laws of Utah 2014, Chapter 411)
303 **4-10-109**, (Renumbered from 4-10-8, as enacted by Laws of Utah 1979, Chapter 2)
304 **4-10-110**, (Renumbered from 4-10-9, as enacted by Laws of Utah 1979, Chapter 2)
305 **4-10-111**, (Renumbered from 4-10-10, as last amended by Laws of Utah 2014, Chapter
306 411)

- 307 **4-10-112**, (Renumbered from 4-10-11, as enacted by Laws of Utah 1979, Chapter 2)
- 308 **4-10-113**, (Renumbered from 4-10-14, as enacted by Laws of Utah 2016, Chapter 21)
- 309 **4-11-101**, (Renumbered from 4-11-1, as enacted by Laws of Utah 1979, Chapter 2)
- 310 **4-11-102**, (Renumbered from 4-11-2, as last amended by Laws of Utah 2014, Chapter
- 311 411)
- 312 **4-11-103**, (Renumbered from 4-11-3, as last amended by Laws of Utah 2008, Chapter
- 313 382)
- 314 **4-11-104**, (Renumbered from 4-11-4, as last amended by Laws of Utah 2010, Chapter
- 315 73)
- 316 **4-11-105**, (Renumbered from 4-11-5, as last amended by Laws of Utah 2016, Chapter
- 317 348)
- 318 **4-11-106**, (Renumbered from 4-11-6, as last amended by Laws of Utah 2010, Chapter
- 319 73)
- 320 **4-11-107**, (Renumbered from 4-11-7, as last amended by Laws of Utah 2015, Chapter
- 321 414)
- 322 **4-11-108**, (Renumbered from 4-11-8, as last amended by Laws of Utah 2010, Chapter
- 323 73)
- 324 **4-11-109**, (Renumbered from 4-11-9, as last amended by Laws of Utah 2010, Chapter
- 325 73)
- 326 **4-11-110**, (Renumbered from 4-11-10, as last amended by Laws of Utah 2010, Chapter
- 327 73)
- 328 **4-11-111**, (Renumbered from 4-11-11, as last amended by Laws of Utah 2010, Chapter
- 329 73)
- 330 **4-11-112**, (Renumbered from 4-11-12, as last amended by Laws of Utah 2010, Chapter
- 331 73)
- 332 **4-11-113**, (Renumbered from 4-11-13, as last amended by Laws of Utah 2010, Chapter
- 333 73)
- 334 **4-11-114**, (Renumbered from 4-11-14, as last amended by Laws of Utah 2010, Chapter
- 335 73)
- 336 **4-11-115**, (Renumbered from 4-11-17, as enacted by Laws of Utah 2010, Chapter 73)
- 337 **4-13-101**, (Renumbered from 4-13-1, as enacted by Laws of Utah 1979, Chapter 2)

338 **4-13-102**, (Renumbered from 4-13-2, as last amended by Laws of Utah 2007, Chapter
339 179)

340 **4-13-103**, (Renumbered from 4-13-3, as last amended by Laws of Utah 1997, Chapter
341 81)

342 **4-13-104**, (Renumbered from 4-13-4, as last amended by Laws of Utah 2007, Chapter
343 179)

344 **4-13-105**, (Renumbered from 4-13-5, as enacted by Laws of Utah 1979, Chapter 2)

345 **4-13-106**, (Renumbered from 4-13-6, as last amended by Laws of Utah 2007, Chapter
346 179)

347 **4-13-107**, (Renumbered from 4-13-7, as enacted by Laws of Utah 1979, Chapter 2)

348 **4-13-108**, (Renumbered from 4-13-8, as enacted by Laws of Utah 1979, Chapter 2)

349 **4-13-109**, (Renumbered from 4-13-9, as enacted by Laws of Utah 1979, Chapter 2)

350 **4-14-101**, (Renumbered from 4-14-1, as enacted by Laws of Utah 1979, Chapter 2)

351 **4-14-102**, (Renumbered from 4-14-2, as last amended by Laws of Utah 2007, Chapter
352 370)

353 **4-14-103**, (Renumbered from 4-14-3, as last amended by Laws of Utah 2014, Chapter
354 411)

355 **4-14-104**, (Renumbered from 4-14-4, as last amended by Laws of Utah 1981, Chapter
356 3)

357 **4-14-105**, (Renumbered from 4-14-5, as enacted by Laws of Utah 1979, Chapter 2)

358 **4-14-106**, (Renumbered from 4-14-6, as last amended by Laws of Utah 2008, Chapter
359 382)

360 **4-14-107**, (Renumbered from 4-14-7, as enacted by Laws of Utah 1979, Chapter 2)

361 **4-14-108**, (Renumbered from 4-14-8, as enacted by Laws of Utah 1979, Chapter 2)

362 **4-14-109**, (Renumbered from 4-14-9, as last amended by Laws of Utah 2007, Chapters
363 179 and 370)

364 **4-14-110**, (Renumbered from 4-14-12, as last amended by Laws of Utah 2007, Chapter
365 370)

366 **4-14-111**, (Renumbered from 4-14-13, as last amended by Laws of Utah 2014, Chapter
367 411)

368 **4-15-101**, (Renumbered from 4-15-1, as enacted by Laws of Utah 1981, Chapter 126)

- 369 **4-15-102**, (Renumbered from 4-15-1.5, as enacted by Laws of Utah 2014, Chapter 411)
- 370 **4-15-103**, (Renumbered from 4-15-2, as last amended by Laws of Utah 2014, Chapter
- 371 411)
- 372 **4-15-104**, (Renumbered from 4-15-3, as last amended by Laws of Utah 2008, Chapter
- 373 382)
- 374 **4-15-105**, (Renumbered from 4-15-4, as enacted by Laws of Utah 1981, Chapter 126)
- 375 **4-15-106**, (Renumbered from 4-15-5, as last amended by Laws of Utah 2007, Chapter
- 376 179)
- 377 **4-15-107**, (Renumbered from 4-15-6, as last amended by Laws of Utah 2007, Chapter
- 378 179)
- 379 **4-15-108**, (Renumbered from 4-15-7, as last amended by Laws of Utah 2014, Chapter
- 380 411)
- 381 **4-15-109**, (Renumbered from 4-15-8, as enacted by Laws of Utah 1981, Chapter 126)
- 382 **4-15-110**, (Renumbered from 4-15-9, as enacted by Laws of Utah 1981, Chapter 126)
- 383 **4-15-111**, (Renumbered from 4-15-10, as last amended by Laws of Utah 2010, Chapter
- 384 378)
- 385 **4-15-112**, (Renumbered from 4-15-11, as last amended by Laws of Utah 2014, Chapter
- 386 411)
- 387 **4-15-113**, (Renumbered from 4-15-12, as enacted by Laws of Utah 1981, Chapter 126)
- 388 **4-15-114**, (Renumbered from 4-15-14, as enacted by Laws of Utah 2014, Chapter 411)
- 389 **4-16-101**, (Renumbered from 4-16-1, as enacted by Laws of Utah 1981, Chapter 126)
- 390 **4-16-102**, (Renumbered from 4-16-2, as last amended by Laws of Utah 2010, Chapter
- 391 324)
- 392 **4-16-103**, (Renumbered from 4-16-3, as last amended by Laws of Utah 2008, Chapter
- 393 382)
- 394 **4-16-201**, (Renumbered from 4-16-4, as last amended by Laws of Utah 1999, Chapter
- 395 237)
- 396 **4-16-202**, (Renumbered from 4-16-5, as last amended by Laws of Utah 1997, Chapter
- 397 81)
- 398 **4-16-203**, (Renumbered from 4-16-7, as last amended by Laws of Utah 2010, Chapter
- 399 324)

- 400 **4-16-301**, (Renumbered from 4-16-8, as last amended by Laws of Utah 1997, Chapter
- 401 81)
- 402 **4-16-302**, (Renumbered from 4-16-10, as last amended by Laws of Utah 1997, Chapter
- 403 81)
- 404 **4-16-303**, (Renumbered from 4-16-11, as last amended by Laws of Utah 1997, Chapter
- 405 81)
- 406 **4-16-401**, (Renumbered from 4-16-9, as enacted by Laws of Utah 1981, Chapter 126)
- 407 **4-16-501**, (Renumbered from 4-16-6, as last amended by Laws of Utah 1997, Chapter
- 408 81)
- 409 **4-17-101**, (Renumbered from 4-17-1, as enacted by Laws of Utah 1981, Chapter 126)
- 410 **4-17-102**, (Renumbered from 4-17-2, as last amended by Laws of Utah 1997, Chapter
- 411 82)
- 412 **4-17-103**, (Renumbered from 4-17-3, as last amended by Laws of Utah 1985, Chapter
- 413 18)
- 414 **4-17-104**, (Renumbered from 4-17-3.5, as last amended by Laws of Utah 2013, Chapter
- 415 461)
- 416 **4-17-105**, (Renumbered from 4-17-4, as last amended by Laws of Utah 1993, Chapter
- 417 227)
- 418 **4-17-106**, (Renumbered from 4-17-4.5, as enacted by Laws of Utah 1985, Chapter 18)
- 419 **4-17-107**, (Renumbered from 4-17-5, as last amended by Laws of Utah 1993, Chapter
- 420 227)
- 421 **4-17-108**, (Renumbered from 4-17-6, as last amended by Laws of Utah 2007, Chapter
- 422 179)
- 423 **4-17-109**, (Renumbered from 4-17-7, as last amended by Laws of Utah 2010, Chapter
- 424 378)
- 425 **4-17-110**, (Renumbered from 4-17-8, as last amended by Laws of Utah 1985, Chapter
- 426 18)
- 427 **4-17-111**, (Renumbered from 4-17-8.5, as last amended by Laws of Utah 1993, Chapter
- 428 227)
- 429 **4-17-112**, (Renumbered from 4-17-10, as enacted by Laws of Utah 1985, Chapter 18)
- 430 **4-17-113**, (Renumbered from 4-17-11, as enacted by Laws of Utah 1981, Chapter 126)

431 **4-17-114**, (Renumbered from 4-2-8.7, as last amended by Laws of Utah 2014, Chapter
432 411)
433 **4-17-115**, (Renumbered from 4-2-8.6, as last amended by Laws of Utah 2014, Chapter
434 411)
435 **4-18-202**, (Renumbered from 4-2-8.5, as last amended by Laws of Utah 2014, Chapter
436 411)
437 **4-19-102**, (Renumbered from 4-19-1, as last amended by Laws of Utah 2007, Chapter
438 179)
439 **4-19-103**, (Renumbered from 4-19-2, as last amended by Laws of Utah 2010, Chapter
440 324)
441 **4-19-104**, (Renumbered from 4-19-3, as last amended by Laws of Utah 2007, Chapter
442 179)
443 **4-19-105**, (Renumbered from 4-19-4, as last amended by Laws of Utah 2007, Chapter
444 179)
445 **4-20-101**, (Renumbered from 4-20-1, as last amended by Laws of Utah 2010, Chapter
446 278)
447 **4-20-103**, (Renumbered from 4-20-1.5, as last amended by Laws of Utah 2013, Chapter
448 227)
449 **4-20-104**, (Renumbered from 4-20-1.6, as last amended by Laws of Utah 2011, Chapter
450 336)
451 **4-20-105**, (Renumbered from 4-20-2, as last amended by Laws of Utah 2011, Chapter
452 303)
453 **4-20-106**, (Renumbered from 4-20-3, as last amended by Laws of Utah 2014, Chapter
454 189)
455 **4-20-107**, (Renumbered from 4-20-8, as enacted by Laws of Utah 1979, Chapter 2)
456 **4-20-108**, (Renumbered from 4-20-9, as enacted by Laws of Utah 1979, Chapter 2)
457 **4-20-109**, (Renumbered from 4-20-10, as enacted by Laws of Utah 2011, Chapter 383)
458 **4-22-102**, (Renumbered from 4-22-1, as enacted by Laws of Utah 1979, Chapter 2)
459 **4-22-103**, (Renumbered from 4-22-2, as last amended by Laws of Utah 1999, Chapter
460 301)
461 **4-22-104**, (Renumbered from 4-22-3, as last amended by Laws of Utah 2010, Chapters

462 286 and 378)
463 [4-22-105](#), (Renumbered from 4-22-6, as last amended by Laws of Utah 2010, Chapters
464 73 and 378)
465 [4-22-106](#), (Renumbered from 4-22-4, as last amended by Laws of Utah 1981, Chapter
466 4)
467 [4-22-107](#), (Renumbered from 4-22-4.5, as last amended by Laws of Utah 2008, Chapter
468 382)
469 [4-22-108](#), (Renumbered from 4-22-5, as enacted by Laws of Utah 1979, Chapter 2)
470 [4-22-201](#), (Renumbered from 4-22-7, as last amended by Laws of Utah 2005, Chapter
471 173)
472 [4-22-202](#), (Renumbered from 4-22-8, as last amended by Laws of Utah 2004, Chapter
473 128)
474 [4-22-203](#), (Renumbered from 4-22-8.5, as last amended by Laws of Utah 1999, Chapter
475 301)
476 [4-22-301](#), (Renumbered from 4-22-9, as enacted by Laws of Utah 1979, Chapter 2)
477 [4-22-302](#), (Renumbered from 4-22-9.5, as last amended by Laws of Utah 1995, Chapter
478 20)
479 [4-22-303](#), (Renumbered from 4-22-10, as enacted by Laws of Utah 1979, Chapter 2)
480 [4-23-101](#), (Renumbered from 4-23-1, as enacted by Laws of Utah 1979, Chapter 2)
481 [4-23-102](#), (Renumbered from 4-23-2, as enacted by Laws of Utah 1979, Chapter 2)
482 [4-23-103](#), (Renumbered from 4-23-3, as last amended by Laws of Utah 1989, Chapter
483 109)
484 [4-23-104](#), (Renumbered from 4-23-4, as last amended by Laws of Utah 2010, Chapters
485 286 and 324)
486 [4-23-105](#), (Renumbered from 4-23-5, as last amended by Laws of Utah 2010, Chapter
487 378)
488 [4-23-106](#), (Renumbered from 4-23-6, as last amended by Laws of Utah 2010, Chapter
489 378)
490 [4-23-107](#), (Renumbered from 4-23-7, as last amended by Laws of Utah 2010, Chapter
491 73)
492 [4-23-108](#), (Renumbered from 4-23-7.5, as last amended by Laws of Utah 2009, Chapter

493 17)
494 [4-23-109](#), (Renumbered from 4-23-8, as last amended by Laws of Utah 2015, Chapter
495 414)
496 [4-23-110](#), (Renumbered from 4-23-10, as enacted by Laws of Utah 1979, Chapter 2)
497 [4-23-111](#), (Renumbered from 4-23-11, as last amended by Laws of Utah 1997, Chapter
498 82)
499 [4-24-101](#), (Renumbered from 4-24-1, as enacted by Laws of Utah 1979, Chapter 2)
500 [4-24-102](#), (Renumbered from 4-24-2, as last amended by Laws of Utah 2010, Chapter
501 378)
502 [4-24-103](#), (Renumbered from 4-24-3, as last amended by Laws of Utah 2008, Chapter
503 382)
504 [4-24-104](#), (Renumbered from 4-24-4, as last amended by Laws of Utah 2010, Chapters
505 286 and 324)
506 [4-24-105](#), (Renumbered from 4-24-30, as last amended by Laws of Utah 1995, Chapter
507 20)
508 [4-24-201](#), (Renumbered from 4-24-5, as enacted by Laws of Utah 1979, Chapter 2)
509 [4-24-202](#), (Renumbered from 4-24-7, as enacted by Laws of Utah 1979, Chapter 2)
510 [4-24-203](#), (Renumbered from 4-24-8, as last amended by Laws of Utah 1985, Chapter
511 130)
512 [4-24-204](#), (Renumbered from 4-24-9, as last amended by Laws of Utah 1983, Chapter
513 4)
514 [4-24-205](#), (Renumbered from 4-24-10, as last amended by Laws of Utah 2010, Chapter
515 324)
516 [4-24-301](#), (Renumbered from 4-24-6, as last amended by Laws of Utah 1988, Chapter
517 42)
518 [4-24-302](#), (Renumbered from 4-24-11, as last amended by Laws of Utah 1997, Chapter
519 302)
520 [4-24-303](#), (Renumbered from 4-24-12, as last amended by Laws of Utah 2010, Chapter
521 378)
522 [4-24-304](#), (Renumbered from 4-24-13, as last amended by Laws of Utah 1997, Chapter
523 302)

524 **4-24-305**, (Renumbered from 4-24-14, as last amended by Laws of Utah 1997, Chapter
525 302)
526 **4-24-306**, (Renumbered from 4-24-15, as last amended by Laws of Utah 1997, Chapter
527 302)
528 **4-24-307**, (Renumbered from 4-24-17, as last amended by Laws of Utah 1997, Chapter
529 302)
530 **4-24-308**, (Renumbered from 4-24-21, as last amended by Laws of Utah 1985, Chapter
531 130)
532 **4-24-309**, (Renumbered from 4-24-16.3, as enacted by Laws of Utah 2015, Chapter
533 161)
534 **4-24-401**, (Renumbered from 4-24-18, as enacted by Laws of Utah 1979, Chapter 2)
535 **4-24-402**, (Renumbered from 4-24-19, as enacted by Laws of Utah 1979, Chapter 2)
536 **4-24-403**, (Renumbered from 4-24-31, as enacted by Laws of Utah 2015, Chapter 161)
537 **4-24-404**, (Renumbered from 4-24-20, as last amended by Laws of Utah 2010, Chapter
538 378)
539 **4-24-405**, (Renumbered from 4-24-22, as last amended by Laws of Utah 1985, Chapter
540 130)
541 **4-24-406**, (Renumbered from 4-24-23, as last amended by Laws of Utah 1985, Chapter
542 130)
543 **4-24-501**, (Renumbered from 4-24-24, as last amended by Laws of Utah 1997, Chapter
544 302)
545 **4-24-502**, (Renumbered from 4-24-25, as enacted by Laws of Utah 1979, Chapter 2)
546 **4-24-503**, (Renumbered from 4-24-26, as enacted by Laws of Utah 1979, Chapter 2)
547 **4-24-504**, (Renumbered from 4-24-28, as last amended by Laws of Utah 1986, Second
548 Special Session, Chapter 10)
549 **4-24-505**, (Renumbered from 4-24-29, as enacted by Laws of Utah 1979, Chapter 2)
550 **4-24-506**, (Renumbered from 4-24-32, as enacted by Laws of Utah 2015, Chapter 161)
551 **4-25-102**, (Renumbered from 4-25-1, as last amended by Laws of Utah 2015, Chapter
552 105)
553 **4-25-103**, (Renumbered from 4-25-2, as last amended by Laws of Utah 1983, Chapter
554 7)

555 **4-25-104**, (Renumbered from 4-25-3, as last amended by Laws of Utah 2008, Chapter
556 382)
557 **4-25-201**, (Renumbered from 4-25-4, as last amended by Laws of Utah 2009, Chapter
558 282)
559 **4-25-202**, (Renumbered from 4-25-5, as last amended by Laws of Utah 2009, Chapter
560 282)
561 **4-25-203**, (Renumbered from 4-25-6, as last amended by Laws of Utah 1983, Chapter
562 7)
563 **4-25-204**, (Renumbered from 4-25-7, as last amended by Laws of Utah 2009, Chapter
564 196)
565 **4-25-205**, (Renumbered from 4-25-8, as last amended by Laws of Utah 2005, Chapter
566 118)
567 **4-25-206**, (Renumbered from 4-25-9, as enacted by Laws of Utah 1979, Chapter 2)
568 **4-25-301**, (Renumbered from 4-25-12, as repealed and reenacted by Laws of Utah
569 2012, Chapter 331)
570 **4-25-302**, (Renumbered from 4-25-12.1, as last amended by Laws of Utah 2015,
571 Chapter 105)
572 **4-25-303**, (Renumbered from 4-25-12.3, as enacted by Laws of Utah 2015, Chapter
573 105)
574 **4-25-401**, (Renumbered from 4-25-14, as last amended by Laws of Utah 2009, Chapter
575 282)
576 **4-30-102**, (Renumbered from 4-30-1, as last amended by Laws of Utah 1999, Chapter
577 298)
578 **4-30-103**, (Renumbered from 4-30-2, as last amended by Laws of Utah 2010, Chapter
579 286)
580 **4-30-104**, (Renumbered from 4-30-3, as last amended by Laws of Utah 2008, Chapter
581 382)
582 **4-30-105**, (Renumbered from 4-30-4, as last amended by Laws of Utah 1999, Chapter
583 298)
584 **4-30-106**, (Renumbered from 4-30-5, as last amended by Laws of Utah 2010, Chapter
585 90)

586 **4-30-107**, (Renumbered from 4-30-6, as last amended by Laws of Utah 2007, Chapter
587 179)
588 **4-30-108**, (Renumbered from 4-30-7, as last amended by Laws of Utah 1999, Chapter
589 298)
590 **4-30-109**, (Renumbered from 4-30-7.5, as enacted by Laws of Utah 1999, Chapter 298)
591 **4-30-110**, (Renumbered from 4-30-7.6, as last amended by Laws of Utah 2010, Chapter
592 378)
593 **4-30-111**, (Renumbered from 4-30-8, as last amended by Laws of Utah 1985, Chapter
594 130)
595 **4-30-112**, (Renumbered from 4-30-9, as last amended by Laws of Utah 1999, Chapter
596 298)
597 **4-32-101**, (Renumbered from 4-32-1, as enacted by Laws of Utah 1979, Chapter 2)
598 **4-32-102**, (Renumbered from 4-32-2, as last amended by Laws of Utah 2010, Chapter
599 242)
600 **4-32-103**, (Renumbered from 4-32-2.1, as enacted by Laws of Utah 2010, Chapter 242)
601 **4-32-104**, (Renumbered from 4-32-2.2, as enacted by Laws of Utah 2010, Chapter 242)
602 **4-32-105**, (Renumbered from 4-32-3, as last amended by Laws of Utah 2016, Chapter
603 18)
604 **4-32-106**, (Renumbered from 4-32-4, as last amended by Laws of Utah 2011, Chapter
605 383)
606 **4-32-107**, (Renumbered from 4-32-5, as last amended by Laws of Utah 2010, Chapter
607 242)
608 **4-32-108**, (Renumbered from 4-32-6, as last amended by Laws of Utah 2010, Chapter
609 242)
610 **4-32-109**, (Renumbered from 4-32-7, as last amended by Laws of Utah 2016, Chapter
611 18)
612 **4-32-110**, (Renumbered from 4-32-8, as last amended by Laws of Utah 2010, Chapter
613 242)
614 **4-32-111**, (Renumbered from 4-32-9, as last amended by Laws of Utah 1997, Chapter
615 296)
616 **4-32-112**, (Renumbered from 4-32-10, as last amended by Laws of Utah 1987, Chapter

617 161)
618 [4-32-113](#), (Renumbered from 4-32-11, as last amended by Laws of Utah 2014, Chapter
619 189)
620 [4-32-114](#), (Renumbered from 4-32-12, as last amended by Laws of Utah 2010, Chapter
621 242)
622 [4-32-115](#), (Renumbered from 4-32-13, as last amended by Laws of Utah 2010, Chapter
623 242)
624 [4-32-116](#), (Renumbered from 4-32-14, as last amended by Laws of Utah 1997, Chapter
625 289)
626 [4-32-117](#), (Renumbered from 4-32-15, as enacted by Laws of Utah 1979, Chapter 2)
627 [4-32-118](#), (Renumbered from 4-32-16, as last amended by Laws of Utah 2010, Chapters
628 242 and 378)
629 [4-32-119](#), (Renumbered from 4-32-17, as last amended by Laws of Utah 2010, Chapter
630 242)
631 [4-32-120](#), (Renumbered from 4-32-18, as last amended by Laws of Utah 2010, Chapter
632 242)
633 [4-32-121](#), (Renumbered from 4-32-20, as last amended by Laws of Utah 2010, Chapter
634 242)
635 [4-32-122](#), (Renumbered from 4-32-21, as last amended by Laws of Utah 2010, Chapter
636 242)
637 [4-32-123](#), (Renumbered from 4-32-22, as last amended by Laws of Utah 2010, Chapters
638 242 and 378)
639 [4-33-101](#), (Renumbered from 4-33-1, as enacted by Laws of Utah 1981, Chapter 8)
640 [4-33-102](#), (Renumbered from 4-33-2, as enacted by Laws of Utah 1981, Chapter 8)
641 [4-33-103](#), (Renumbered from 4-33-3, as enacted by Laws of Utah 1981, Chapter 8)
642 [4-33-104](#), (Renumbered from 4-33-4, as last amended by Laws of Utah 2008, Chapter
643 382)
644 [4-33-105](#), (Renumbered from 4-33-5, as enacted by Laws of Utah 1981, Chapter 8)
645 [4-33-106](#), (Renumbered from 4-33-6, as enacted by Laws of Utah 1981, Chapter 8)
646 [4-33-107](#), (Renumbered from 4-33-7, as enacted by Laws of Utah 1981, Chapter 8)
647 [4-33-108](#), (Renumbered from 4-33-8, as last amended by Laws of Utah 2002, Chapter

- 648 9)
- 649 [4-33-109](#), (Renumbered from 4-33-9, as enacted by Laws of Utah 1981, Chapter 8)
- 650 [4-33-110](#), (Renumbered from 4-33-10, as enacted by Laws of Utah 1981, Chapter 8)
- 651 [4-34-102](#), (Renumbered from 4-34-1, as enacted by Laws of Utah 1981, Chapter 70)
- 652 [4-34-103](#), (Renumbered from 4-34-2, as enacted by Laws of Utah 1981, Chapter 70)
- 653 [4-34-104](#), (Renumbered from 4-34-3, as enacted by Laws of Utah 1981, Chapter 70)
- 654 [4-34-105](#), (Renumbered from 4-34-4, as enacted by Laws of Utah 1981, Chapter 70)
- 655 [4-34-106](#), (Renumbered from 4-34-5, as enacted by Laws of Utah 1981, Chapter 70)
- 656 [4-34-107](#), (Renumbered from 4-34-6, as last amended by Laws of Utah 1990, Chapter
- 657 157)
- 658 [4-35-101](#), (Renumbered from 4-35-1, as enacted by Laws of Utah 1985, Chapter 133)
- 659 [4-35-102](#), (Renumbered from 4-35-2, as last amended by Laws of Utah 1997, Chapter
- 660 82)
- 661 [4-35-103](#), (Renumbered from 4-35-3, as last amended by Laws of Utah 2010, Chapter
- 662 286)
- 663 [4-35-104](#), (Renumbered from 4-35-4, as last amended by Laws of Utah 2002, Chapter
- 664 132)
- 665 [4-35-105](#), (Renumbered from 4-35-5, as enacted by Laws of Utah 1985, Chapter 133)
- 666 [4-35-106](#), (Renumbered from 4-35-6, as last amended by Laws of Utah 2010, Chapter
- 667 391)
- 668 [4-35-107](#), (Renumbered from 4-35-7, as last amended by Laws of Utah 2010, Chapter
- 669 378)
- 670 [4-35-108](#), (Renumbered from 4-35-8, as enacted by Laws of Utah 1985, Chapter 133)
- 671 [4-35-109](#), (Renumbered from 4-35-9, as enacted by Laws of Utah 1985, Chapter 133)
- 672 [4-38-101](#), (Renumbered from 4-38-1, as enacted by Laws of Utah 1992, Chapter 296)
- 673 [4-38-102](#), (Renumbered from 4-38-2, as last amended by Laws of Utah 1993, Chapter
- 674 64)
- 675 [4-38-103](#), (Renumbered from 4-38-3, as last amended by Laws of Utah 2016, Chapter
- 676 19)
- 677 [4-38-104](#), (Renumbered from 4-38-4, as last amended by Laws of Utah 2008, Chapter
- 678 382)

- 679 **4-38-105**, (Renumbered from 4-38-5, as enacted by Laws of Utah 1992, Chapter 296)
- 680 **4-38-106**, (Renumbered from 4-38-6, as last amended by Laws of Utah 2008, Chapter
- 681 382)
- 682 **4-38-201**, (Renumbered from 4-38-7, as last amended by Laws of Utah 2007, Chapter
- 683 322)
- 684 **4-38-202**, (Renumbered from 4-38-8, as last amended by Laws of Utah 2010, Chapter
- 685 324)
- 686 **4-38-203**, (Renumbered from 4-38-10, as last amended by Laws of Utah 1993, Chapter
- 687 64)
- 688 **4-38-301**, (Renumbered from 4-38-9, as last amended by Laws of Utah 1993, Chapters
- 689 4 and 64)
- 690 **4-38-302**, (Renumbered from 4-38-11, as enacted by Laws of Utah 1992, Chapter 296)
- 691 **4-38-303**, (Renumbered from 4-38-12, as enacted by Laws of Utah 1992, Chapter 296)
- 692 **4-38-304**, (Renumbered from 4-38-15, as enacted by Laws of Utah 1992, Chapter 296)
- 693 **4-38-401**, (Renumbered from 4-38-13, as enacted by Laws of Utah 1992, Chapter 296)
- 694 **4-38-402**, (Renumbered from 4-38-16, as enacted by Laws of Utah 1993, Chapter 64)
- 695 **4-38-501**, (Renumbered from 4-38-14, as last amended by Laws of Utah 2008, Chapter
- 696 382)
- 697 REPEALS:
- 698 **4-11-15**, as last amended by Laws of Utah 2010, Chapter 73
- 699 **4-18-109**, as enacted by Laws of Utah 2016, Chapter 166
- 700 **4-25-10**, as enacted by Laws of Utah 1979, Chapter 2
- 701 **4-25-11**, as repealed and reenacted by Laws of Utah 1988, Chapter 139
- 702 **4-31-117**, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 703 **4-36-1**, as enacted by Laws of Utah 1985, Chapter 191
- 704 **4-36-2**, as enacted by Laws of Utah 1985, Chapter 191
- 705 **4-36-3**, as last amended by Laws of Utah 1997, Chapter 82
- 706 **4-36-4**, as last amended by Laws of Utah 1997, Chapter 82
- 707 **4-36-5**, as enacted by Laws of Utah 1985, Chapter 191
- 708 **4-36-6**, as enacted by Laws of Utah 1985, Chapter 191
- 709 **4-36-7**, as enacted by Laws of Utah 1985, Chapter 191

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

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

TITLE 4. UTAH AGRICULTURAL CODE

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

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

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

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

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

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

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

Unless displaced by the particular provisions of this code, the principles of law and equity supplement ~~[its]~~ the provisions of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

753 (4) (a) If the court orders condemnation, the department shall dispose of the
754 agricultural product as the court directs.

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

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

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

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

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

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

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

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

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

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

- 772 (i) written notice of ~~[its]~~ the department's intent to file criminal charges; and
- 773 (ii) an opportunity to present, personally or through counsel, the person's views with
- 774 respect to the contemplated action.

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

776 (a) a witness fee for each day of required attendance at a proceeding initiated by the

777 department; and

778 (b) mileage in accordance with the fees and mileage allowed a witness appearing in a

779 district court of this state.

780 Section 6. Section **4-1-106**, which is renumbered from Section 4-1-5 is renumbered

781 and amended to read:

782 ~~[4-1-5]~~. **4-1-106. Suspension or revocation of license or registration --**

783 **Judicial review -- Attorney general to represent department.**

784 (1) If the department has reason to believe that a licensee or registrant is or has engaged

785 in conduct that violates this title, ~~[it]~~ the department shall issue and serve a notice of agency

786 action.

787 (2) The commissioner, or the hearing officer designated by the commissioner, may

788 suspend or revoke a person's license or registration if the commissioner or hearing officer finds

789 by a preponderance of the evidence that the person is engaging, or has engaged, in conduct that

790 violates this title.

791 (3) (a) Any person whose registration or license is suspended or revoked under this

792 section may obtain judicial review.

793 (b) Venue for judicial review of informal adjudicative proceedings is in the district

794 court in the county where the alleged acts giving rise to the suspension or revocation occurred.

795 (4) The attorney general shall represent the department in any original action or appeal

796 commenced under this section.

797 Section 7. Section **4-1-107**, which is renumbered from Section 4-1-6 is renumbered

798 and amended to read:

799 ~~[4-1-6]~~. **4-1-107. Fees and late charges.**

800 (1) If an annual registration, license, or other fee is imposed under any chapter of this

801 ~~[code]~~ title, it shall be determined by the department pursuant to Subsection ~~[4-2-2]~~ 4-2-103(2).

802 (2) If the renewal of the registration or license is conditioned~~[, among other things,]~~

803 upon the payment of a renewal fee on or before a specified date, the department shall charge
 804 and collect the renewal fee and a late fee on any license or registration [~~which~~] that is renewed
 805 after the date specified for renewal in the applicable chapter.

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

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

810 [~~4-1-7~~]. **4-1-108. Severability clause.**

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

815 Section 9. Section ~~4-1-109~~, which is renumbered from Section 4-1-8 is renumbered
 816 and amended to read:

817 [~~4-1-8~~]. **4-1-109. General definitions.**

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

820 As used in this title:

821 [(2)] (1) "Agricultural product" or "product of agriculture" means any product [~~which~~]
 822 that is derived from agriculture, including any product derived from aquaculture as defined in
 823 Section 4-37-103.

824 [(+)] (2) "Agriculture" means the science and art of the production of plants and
 825 animals useful to man, including the preparation of plants and animals for human use and
 826 disposal by marketing or otherwise.

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

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

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

832 (6) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated
 833 elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised

834 or kept for profit.

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

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

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

842 ~~[4-1-9]~~. **4-1-110. Growing or storing food for personal or family use.**

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

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

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

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

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

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

862 (b) The provisions of this section are severable.

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

864 **CHAPTER 2. ADMINISTRATION**

865 **Part 1. Organization**866 **4-2-101. Title.**867 This chapter is known as "Administration."868 Section 12. Section **4-2-102**, which is renumbered from Section 4-2-1 is renumbered
869 and amended to read:870 ~~[4-2-1].~~ **4-2-102. Department created.**871 (1) There is [~~hereby~~] created within state government the Department of Agriculture
872 and Food [~~which~~].873 (2) The department created in Subsection (1) is responsible [~~in this state~~] for the
874 administration and enforcement of all laws, services, functions, and consumer programs related
875 to agriculture in this state as assigned to the department by the Legislature.876 Section 13. Section **4-2-103**, which is renumbered from Section 4-2-2 is renumbered
877 and amended to read:878 ~~[4-2-2].~~ **4-2-103. Functions, powers, and duties of department -- Fees for**
879 **services -- Marketing orders -- Procedure -- Purchasing and auditing.**

880 (1) The department shall:

881 (a) inquire into and promote the interests and products of agriculture and [~~its~~] allied
882 industries;883 (b) promote methods for increasing the production and facilitating the distribution of
884 the agricultural products of the state;885 (c) (i) inquire into the cause of contagious, infectious, and communicable diseases
886 among livestock and the means for their prevention and cure; and887 (ii) initiate, implement, and administer plans and programs to prevent the spread of
888 diseases among livestock;889 (d) encourage experiments designed to determine the best means and methods for the
890 control of diseases among domestic and wild animals;

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

892 (i) promote orderly market conditions for any product;

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

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

- 896 (f) administer and enforce all laws assigned to the department by the Legislature;
- 897 (g) establish standards and grades for agricultural products and fix and collect
- 898 reasonable fees for services performed by the department in conjunction with the grading of
- 899 agricultural products;
- 900 (h) establish operational standards for any establishment that manufactures, processes,
- 901 produces, distributes, stores, sells, or offers for sale any agricultural product;
- 902 (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 903 rules necessary for the effective administration of the agricultural laws of the state;
- 904 (j) when necessary, make investigations, subpoena witnesses and records, conduct
- 905 hearings, issue orders, and make recommendations concerning all matters related to
- 906 agriculture;
- 907 (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any
- 908 private or public place that may become infested or infected with harmful insects, plant
- 909 diseases, noxious or poisonous weeds, or other agricultural pests;
- 910 (ii) establish and enforce quarantines;
- 911 (iii) issue and enforce orders and rules for the control and eradication of pests,
- 912 wherever they may exist within the state; and
- 913 (iv) perform other duties relating to plants and plant products considered advisable and
- 914 not contrary to law;
- 915 (l) inspect apiaries for diseases inimical to bees and beekeeping;
- 916 (m) take charge of any agricultural exhibit within the state, if considered necessary by
- 917 the department, and award premiums at that exhibit;
- 918 (n) assist the Conservation Commission in the administration of Title 4, Chapter 18,
- 919 Conservation Commission Act, and administer and disburse any funds available to assist
- 920 conservation districts in the state in the conservation of the state's soil and water resources;
- 921 (o) participate in the United States Department of Agriculture certified agricultural
- 922 mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;
- 923 (p) promote and support the multiple use of public lands; and
- 924 (q) perform any additional functions, powers, and duties provided by law.
- 925 (2) The department, by following the procedures and requirements of Section
- 926 [63J-1-504](#), may adopt a schedule of fees assessed for services provided by the department.

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

928 (i) the department gives notice of the proposed order to the producers and handlers of
929 the affected product;

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

931 (iii) at least 50% of the registered producers and handlers of the affected products vote
932 in favor of the proposed order.

933 (b) (i) The department may establish boards of control to administer marketing orders
934 and the proceeds derived from any order.

935 (ii) ~~The~~ A board of control shall:

936 (A) ensure that all proceeds are placed in an account in the board of control's name in a
937 depository institution; and

938 (B) ensure that the account is annually audited by an accountant approved by the
939 commissioner.

940 (4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be
941 deposited ~~in~~ into the General Fund as dedicated credits for the grain grading program.

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

943 (a) purchase, as authorized or required by law, services that the department is
944 responsible to provide for legally eligible persons;

945 (b) take necessary steps, including legal action, to recover money or the monetary value
946 of services provided to a recipient who is not eligible;

947 (c) examine and audit the expenditures of any public funds provided to a local
948 authority, agency, or organization that contracts with or receives funds from those authorities or
949 agencies; and

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

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

954 ~~[4-2-3]~~. **4-2-104. Administration by commissioner.**

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

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

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

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

962 ~~[4-2-4].~~ **4-2-105. Organization of divisions within department.**

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

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

967 ~~[4-2-5].~~ **4-2-106. Submission of department's budget.**

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

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

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

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

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

978 ~~[4-2-6].~~ **4-2-107. Official seal -- Authentication of records.**

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

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

983 Section 18. Section ~~4-2-108~~, which is renumbered from Section 4-2-7 is renumbered
984 and amended to read:

985 ~~[4-2-7].~~ **4-2-108. Agricultural Advisory Board created -- Composition --**
986 **Responsibility -- Terms of office -- Compensation.**

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

- 989 (a) Utah Farm Bureau Federation;
- 990 (b) Utah Farmers Union;
- 991 (c) Utah Cattlemen's Association;
- 992 (d) Utah Wool Growers^[] Association;
- 993 (e) Utah Dairymen's Association;
- 994 (f) Utah Pork [~~Producers~~] Producers Association;
- 995 (g) egg and poultry producers;
- 996 (h) Utah Veterinary Medical Association;
- 997 (i) Livestock Auction Marketing Association;
- 998 (j) Utah Association of Conservation Districts;
- 999 (k) the Utah horse industry;
- 1000 (l) the food processing industry;
- 1001 (m) the fruit and vegetable industry;
- 1002 (n) the turkey industry;
- 1003 (o) manufacturers of food supplements;
- 1004 (p) a consumer affairs group;
- 1005 (q) dean of the College of Agriculture and Applied Science and vice president of
- 1006 extension from Utah State University;
- 1007 (r) urban and small farmers;
- 1008 (s) Utah Elk Breeders Association;
- 1009 (t) Utah Beekeepers Association; and
- 1010 (u) Utah Fur Breeders Association.
- 1011 (2) (a) The Agricultural Advisory Board shall advise the commissioner regarding:
- 1012 (i) the planning, implementation, and administration of the department's programs; and
- 1013 (ii) the establishment of standards governing the care of livestock and poultry,
- 1014 including consideration of:
- 1015 (A) food safety;
- 1016 (B) local availability and affordability of food; and
- 1017 (C) acceptable practices for livestock and farm management.
- 1018 (b) The Agricultural Advisory Board shall fulfill the duties described in Title 4,
- 1019 Chapter 2, Part 5, Horse Tripping Awareness.

1020 (3) (a) Except as required by Subsection (3)(c), members are appointed by the
1021 commissioner to four-year terms of office.

1022 (b) The commissioner shall appoint representatives of the organizations cited in
1023 Subsections (1)(a) through (h) to the Agricultural Advisory Board from a list of nominees
1024 submitted by each organization.

1025 (c) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
1026 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1027 board members are staggered so that approximately half of the board is appointed every two
1028 years.

1029 (d) Members may be removed at the discretion of the commissioner upon the request
1030 of the group they represent.

1031 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
1032 appointed for the unexpired term.

1033 (4) The board shall elect one member to serve as chair of the Agricultural Advisory
1034 Board for a term of one year.

1035 (5) (a) The board shall meet four times annually, but may meet more often at the
1036 discretion of the chair.

1037 (b) Attendance of 11 members at a duly called meeting constitutes a quorum for the
1038 transaction of official business.

1039 (6) A member may not receive compensation or benefits for the member's service, but
1040 may receive per diem and travel expenses in accordance with:

1041 (a) Section 63A-3-106;

1042 (b) Section 63A-3-107; and

1043 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1044 63A-3-107.

1045 Section 19. Section ~~4-2-109~~, which is renumbered from Section 4-2-8 is renumbered
1046 and amended to read:

1047 ~~[4-2-8]~~. **4-2-109. Temporary advisory committees -- Appointment --**
1048 **Compensation.**

1049 (1) The commissioner, with the permission of the governor, may appoint other
1050 advisory committees on a temporary basis to offer technical advice to the department.

- 1051 (2) A member of a committee serves at the pleasure of the commissioner.
- 1052 (3) A member may not receive compensation or benefits for the member's service, but
- 1053 may receive per diem and travel expenses in accordance with:
- 1054 (a) Section [63A-3-106](#);
- 1055 (b) Section [63A-3-107](#); and
- 1056 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
- 1057 [63A-3-107](#).

1058 Section 20. Section **4-2-201**, which is renumbered from Section 4-2-9 is renumbered
1059 and amended to read:

1060 **Part 2. State Chemist**

1061 ~~[4-2-9]~~. **4-2-201. Appointment of the state chemist.**

1062 The commissioner shall appoint a state chemist [~~shall be appointed by the~~
1063 ~~commissioner~~].

1064 Section 21. Section **4-2-202**, which is renumbered from Section 4-2-10 is renumbered
1065 and amended to read:

1066 ~~[4-2-10]~~. **4-2-202. State chemist responsibilities.**

- 1067 (1) The state chemist shall:
 - 1068 (a) serve as the chief administrative officer of the Division of Laboratories; and
 - 1069 (b) supervise and administer all analytical tests required to be performed under this title
- 1070 or under any rule [~~authorized by it~~] adopted under this title.
- 1071 (2) The state chemist may perform analytical tests for other state agencies, federal
- 1072 agencies, units of local government, and private persons if:
 - 1073 (a) the tests and analytical work do not interfere with, or impede, the work required by
 - 1074 the department; and
 - 1075 (b) a charge commensurate with the work involved is made and collected.
- 1076 (3) The state chemist shall perform any other official duties assigned by the
- 1077 commissioner.

1078 Section 22. Section **4-2-301**, which is renumbered from Section 4-2-11 is renumbered
1079 and amended to read:

1080 **Part 3. Enforcement and Penalties**

1081 ~~[4-2-11]~~. **4-2-301. Attorney general legal advisor for department -- County or**

1082 **district attorney may bring action upon request of department for violations of title.**

1083 (1) The attorney general is the legal advisor for the department and shall defend the
1084 department and [its] the department's representatives in all actions and proceedings brought
1085 against [it] the department.

1086 (2) (a) The county attorney or the district attorney, as provided under Sections
1087 17-18a-202 and 17-18a-203, of the county in which a cause of action arises or a public offense
1088 occurs may bring civil or criminal action, upon request of the department, to enforce the laws,
1089 standards, orders, and rules of the department or to prosecute violations of this title.

1090 (b) If the county attorney or district attorney fails to act, the department may request the
1091 attorney general to bring an action on behalf of the department.

1092 Section 23. Section **4-2-302**, which is renumbered from Section 4-2-12 is renumbered
1093 and amended to read:

1094 ~~[4-2-12]~~. **4-2-302. Notice of violation -- Order for corrective action.**

1095 (1) Whenever the department determines that any person, or any officer or employee of
1096 any person, is violating any requirement of this title or rules adopted under this title, the
1097 department shall serve written notice upon the alleged violator [~~which~~] that specifies the
1098 violation and alleges the facts constituting the violation.

1099 (2) After serving notice as required in Subsection (1), the department may:

1100 (a) issue an order for necessary corrective action; and

1101 (b) request the attorney general [~~or the~~], county attorney, or [~~the~~] district attorney to
1102 seek injunctive relief and enforcement of the order as provided in Subsection [~~4-2-11~~]
1103 4-2-301(2).

1104 Section 24. Section **4-2-303**, which is renumbered from Section 4-2-14 is renumbered
1105 and amended to read:

1106 ~~[4-2-14]~~. **4-2-303. Violations of title unlawful.**

1107 It is unlawful for any person, or the [~~officers or employees~~] officer or employee of any
1108 person, to willfully violate, disobey, or disregard this title or any notice or order issued under
1109 this title.

1110 Section 25. Section **4-2-304**, which is renumbered from Section 4-2-15 is renumbered
1111 and amended to read:

1112 ~~[4-2-15]~~. **4-2-304. Civil and criminal penalties -- Costs -- Civil liability.**

1113 (1) (a) Except as otherwise provided by this title, any person, or the [~~officers or~~
1114 ~~employees~~] officer or employee of any person, who violates this title or any lawful notice or
1115 order issued pursuant to this title shall be assessed a penalty not to exceed \$5,000 per violation
1116 in a civil proceeding, and is guilty of a class B misdemeanor in a criminal proceeding [~~is guilty~~
1117 ~~of a class B misdemeanor~~].

1118 (b) A subsequent criminal violation within two years is a class A misdemeanor.

1119 (2) Any person, or the [~~officers or employees~~] officer or employee of any person, shall
1120 be liable for any expenses incurred by the department in abating any violation of this title.

1121 (3) A penalty assessment or criminal conviction under this title does not relieve the
1122 person assessed or convicted from civil liability for claims arising out of any act [~~which~~] that
1123 was also a violation.

1124 Section 26. Section **4-2-401** is amended to read:

1125 **Part 4. State Veterinarian**

1126 **4-2-401. Appointment.**

1127 The commissioner shall appoint a state veterinarian [~~shall be appointed by the~~
1128 ~~commissioner~~].

1129 Section 27. Section **4-2-402** is amended to read:

1130 **4-2-402. State veterinarian responsibilities.**

1131 (1) The state veterinarian shall:

1132 (a) coordinate the department's responsibilities for:

1133 (i) the promotion of animal health; and

1134 (ii) the diagnosis, surveillance, and prevention of animal disease[~~; and~~].

1135 [~~(iii) livestock brand registration and inspection;~~]

1136 (b) aid the meat inspection manager, whose duties are specified by the commissioner,
1137 in the direction of the inspection of meat and poultry; and

1138 (c) perform other official duties assigned by the commissioner.

1139 (2) The state veterinarian may not receive compensation for services provided while
1140 engaging in the private practice of veterinary medicine.

1141 (3) The state veterinarian shall be a veterinarian licensed under Title 58, Chapter 28,
1142 Veterinary Practice Act.

1143 Section 28. Section **4-2-501** is amended to read:

1144 **Part 5. Horse Tripping Awareness**

1145 **4-2-501. Title.**

1146 This part is known as "Horse Tripping Awareness."

1147 Section 29. Section **4-2-502** is amended to read:

1148 **4-2-502. Definitions.**

1149 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 30. 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

1178 (ii) if necessary, make recommendations for rules or legislation designed to prohibit

1179 horse tripping.

1180 (3) The department shall fine the owner of a venue that fails to fulfill the duties

1181 described in Subsection (1) \$500 per violation.

1182 (4) The department, in consultation with the board, shall make rules in accordance with

1183 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to enforce this part.

1184 Section 31. Section ~~4-2-504~~ is amended to read:

1185 **4-2-504. Horse tripping education -- Reporting requirements.**

1186 [~~(1)~~] The department, in conjunction with the board, shall:

1187 [~~(a)~~] (1) send a letter, annually, to venues that host horse events:

1188 [~~(i)~~] (a) outlining the reporting requirements of Section 4-2-503; and

1189 [~~(ii)~~] (b) providing educational information on the negative effects of horse tripping;

1190 and

1191 [~~(b)~~] (2) promote, as funding allows, policies regarding the safety and welfare of horses
1192 involved in horse events, such as horse roping and horse tripping.

1193 [~~(2) The department and the board shall, by November 30, 2015, report to the Natural
1194 Resources, Agriculture, and Environment Interim Committee about:]~~

1195 [~~(a) reported incidents of horse tripping;]~~

1196 [~~(b) any recommendations made by the board pursuant to Subsection 4-2-503(2)(b);~~

1197 and]

1198 [~~(c) the progress made in educating the public under Subsection (1).]~~

1199 Section 32. Section ~~4-3-101~~ is enacted to read:

1200 **CHAPTER 3. UTAH DAIRY ACT**

1201 **Part 1. Organization**

1202 **4-3-101. Title.**

1203 This chapter is known as the "Utah Dairy Act."

1204 Section 33. Section ~~4-3-102~~, which is renumbered from Section 4-3-1 is renumbered

1205 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 34. 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 35. 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
1318 its findings relative to inspections in lieu of making its own inspections, but the department
1319 may evaluate the effectiveness of any local inspection program.

1320 (3) If a town, city, or county intends to cease making inspections under this chapter, it
1321 shall notify the department of its intent to cease inspection at least one year in advance of the
1322 actual cessation of inspection.

1323 (4) Upon request, the commissioner shall cooperate with other state agencies, towns,
1324 cities, counties, and federal authorities in the administration and enforcement of this chapter.

1325 Section 36. Section **4-3-203**, which is renumbered from Section 4-3-4 is renumbered
1326 and amended to read:

1327 ~~[4-3-4]~~. **4-3-203. Authority to inspect premises.**

1328 (1) The department may inspect any premises where dairy products are produced,
1329 manufactured, processed, stored, or held for distribution, at reasonable times and places, to

1330 determine whether the premises are in compliance with this chapter and the rules adopted
1331 according to it.

1332 (2) If the department is denied access, it may proceed immediately to the nearest court
1333 of competent jurisdiction to seek an ex parte warrant or its equivalent to permit inspection of
1334 the premises.

1335 Section 37. Section **4-3-204**, which is renumbered from Section 4-3-5 is renumbered
1336 and amended to read:

1337 ~~[4-3-5]~~. **4-3-204. Authority to collect samples -- Receipt -- Names of**
1338 **distributors.**

1339 (1) Samples of dairy products from each dairy farm or processing plant may be secured
1340 and examined as often as deemed necessary by the department.

1341 (2) Samples of dairy products from stores, cafes, soda fountains, restaurants, and other
1342 places where dairy products are sold may be secured and examined as often as deemed
1343 necessary by the department.

1344 (3) Samples of milk or dairy products may be taken by the department at any time
1345 before final delivery to the consumer.

1346 (4) The department shall provide a signed receipt for all samples taken showing the
1347 date of sampling and the amount and kind of sample taken; provided, that the department is not
1348 liable to any person for the cost of any sample taken.

1349 (5) All proprietors of stores, cafes, restaurants, soda fountains, and other similar places
1350 shall furnish the department, upon request, with the names of all distributors from whom dairy
1351 products are obtained.

1352 Section 38. Section **4-3-205**, which is renumbered from Section 4-3-6 is renumbered
1353 and amended to read:

1354 ~~[4-3-6]~~. **4-3-205. Condemnation, embargo, denaturization of unfit milk or**
1355 **dairy products -- Unfit equipment.**

1356 (1) The department may condemn or embargo any milk or dairy product which is
1357 adulterated, misbranded, or not produced or processed in accordance with this chapter.

1358 (2) The department may condemn the use of any equipment, tank, or container used to
1359 produce, process, manufacture, or transport milk or dairy products that it finds, upon
1360 inspection, to be unclean or contaminated.

1361 (3) The department may mark or tag any condemned equipment, tank, or container
1362 with the words "this (equipment, tank, or container) is unfit to contain human food."

1363 (4) Condemned milk shall be decharacterized or denatured with harmless coloring or
1364 rennet by the department.

1365 Section 39. Section **4-3-206**, which is renumbered from Section 4-3-7 is renumbered
1366 and amended to read:

1367 ~~[4-3-7]~~. **4-3-206. Testing and measuring milk -- Standards prescribed --**
1368 **Milk quality work in accordance with rules.**

1369 (1) Milk shall be tested and measured in accordance with:

1370 (a) the latest edition of "Association of Official Analytical Chemists";

1371 (b) the latest edition of "Standard Methods for Examination of Dairy Products";

1372 (c) other publications accepted by the department; or

1373 (d) methods prescribed by the department.

1374 (2) A processor or manufacturer shall perform quality work in accordance with the
1375 rules adopted by the department.

1376 Section 40. Section **4-3-301**, which is renumbered from Section 4-3-8 is renumbered
1377 and amended to read:

1378 **Part 3. Licensing Permits**

1379 ~~[4-3-8]~~. **4-3-301. Licenses and permits -- Application -- Fee -- Expiration --**
1380 **Renewal.**

1381 (1) Application for a license to operate a plant, manufacture butter or cheese,
1382 pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of
1383 dairy products shall be made to the department upon forms prescribed and furnished by it.

1384 (2) Upon receipt of a proper application, compliance with all applicable rules, and
1385 payment of a license fee determined by the department according to Subsection ~~[4-2-2]~~
1386 [4-2-103](#)(2), the commissioner, if satisfied that the public convenience and necessity and the
1387 industry will be served, shall issue an appropriate license to the applicant subject to suspension
1388 or revocation for cause.

1389 (3) Each license issued under this section expires at midnight on December 31 of each
1390 year.

1391 (4) A license to operate a plant, manufacture butter or cheese, pasteurize milk, test milk

1392 for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is renewable
1393 for a period of one year upon the payment of an annual license renewal fee determined by the
1394 department according to Subsection [~~4-2-2~~] 4-2-103(2) on or before December 31 of each year.

1395 (5) Application for a permit or certificate to produce milk shall be made to the
1396 department on forms prescribed and furnished by it.

1397 (6) (a) Upon receipt of a proper application and compliance with all applicable rules,
1398 the commissioner shall issue a permit entitling the applicant to engage in the business of
1399 producer, subject to suspension or revocation for cause.

1400 (b) No fee may be charged by the department for issuance of a permit or certificate.

1401 Section 41. 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 42. 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 43. 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 44. 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 45. 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.

1514 (2) Upon receipt, the department shall keep a notification of a cow-share program
1515 described in Subsection (1) on file.

1516 Section 46. Section **4-3-502**, which is renumbered from Section 4-3-13 is renumbered
1517 and amended to read:

1518 ~~[4-3-13]~~. **4-3-502. Exemption.**

1519 (1) This chapter does not apply to milk or milk products produced on the farm if such
1520 milk or milk products are used by:

- 1521 (a) the owner of the farm;
- 1522 (b) a member of the owner's immediate family;
- 1523 (c) a participant in a cow-share program; or
- 1524 (d) a member of a participant in a cow-share program's immediate family.

1525 (2) The department may not adopt a rule that restricts, limits, or imposes additional
1526 requirements on an individual obtaining:

- 1527 (a) raw milk in accordance with the terms of a cow-share program agreement; or
- 1528 (b) an interest in a cow-share program in accordance with the terms of the cow-share
1529 program agreement.

1530 Section 47. Section **4-3-503**, which is renumbered from Section 4-3-14 is renumbered
1531 and amended to read:

1532 ~~[4-3-14]~~. **4-3-503. Sale of raw milk -- Suspension of producer's permit --**
1533 **Severability not permitted.**

1534 (1) As used in this section:

- 1535 (a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.
- 1536 (b) "Self-owned retail store" means a retail store:
 - 1537 (i) of which the producer owns at least 51% of the value of the real property and
1538 tangible personal property used in the operations of the retail store; or
 - 1539 (ii) for which the producer has the power to vote at least 51% of any class of voting
1540 shares or ownership interest in the business entity that operates the retail store.

1541 (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 48. Section ~~4-4-101~~, which is renumbered from Section 4-4-1 is renumbered
 1653 and amended to read:

1654 CHAPTER 4. EGGS

1655 ~~[4-4-1].~~ 4-4-101. Title.

1656 ~~[The department shall establish grades and standards of quality, size, and weight~~
 1657 ~~governing the sale of eggs.]~~ This chapter is known as "Eggs."

1658 Section 49. Section ~~4-4-102~~, which is renumbered from Section 4-4-2 is renumbered
 1659 and amended to read:

1660 ~~[4-4-2].~~ 4-4-102. Department to establish egg grades and standards --
 1661 Authority to make and enforce rules.

1662 (1) The department shall establish grades and standards of quality, size, and weight
 1663 governing the sale of eggs.

1664 (2) The department ~~[is authorized]~~ shall, subject to Title 63G, Chapter 3, Utah
 1665 Administrative Rulemaking Act, ~~[to]~~ make and enforce ~~[such]~~ rules ~~[as in its judgment]~~ that
 1666 are necessary to administer and enforce this chapter.

1667 Section 50. Section ~~4-4-103~~, which is renumbered from Section 4-4-3 is renumbered
 1668 and amended to read:

1669 ~~[4-4-3].~~ 4-4-103. Definitions.

1670 As used in this chapter:

- 1671 (1) "Addled" or "white rot" means putrid or rotten.
- 1672 (2) "Adherent yolk" means the yolk has settled to one side and become fastened to the
1673 shell.
- 1674 (3) "Albumen" means the white of an egg.
- 1675 [(3)] (4) "Black rot" means the egg has deteriorated to such an extent that the whole
1676 interior presents a blackened appearance.
- 1677 [(4)] (5) "Black spot" means [~~mould~~] mold or bacteria have developed in isolated areas
1678 inside the shell.
- 1679 [(5)] (6) "Blood ring" means bacteria have developed to such an extent that blood is
1680 formed.
- 1681 [(6)] (7) "Candling" means the act of determining the condition of an egg by holding it
1682 before a strong light in such a way that [it] the light shines through the egg and reveals [its] the
1683 egg's contents.
- 1684 [(7)] "~~Mouldy~~" means ~~mould~~]
- 1685 (8) "Moldy" means mold spores have formed within the shell.
- 1686 Section 51. Section ~~4-4-104~~, which is renumbered from Section 4-4-4 is renumbered
1687 and amended to read:
- 1688 [~~4-4-4~~]. **4-4-104. Unlawful acts specified.**
- 1689 (1) It is unlawful for any person to sell, offer, or expose [~~any egg~~] for sale for human
1690 consumption any egg:
- 1691 (a) that is addled or [~~mouldy~~] moldy or that contains black spot, black rot, white rot,
1692 blood ring, adherent yolk, or a bloody or green [~~white, also called~~] albumen; or
- 1693 (b) without a sign or label that conforms to the standards for display and grade adopted
1694 by the department.
- 1695 (2) Nothing in this section [~~shall prohibit~~] prohibits the sale of a denatured [~~eggs~~] egg.
- 1696 Section 52. Section ~~4-4-105~~, which is renumbered from Section 4-4-5 is renumbered
1697 and amended to read:
- 1698 [~~4-4-5~~]. **4-4-105. Maintenance of candling records -- Inspection of records.**
- 1699 [~~Every~~] (1) A person who sells, offers, or exposes eggs for sale or exchange shall
1700 maintain candling records as prescribed by the department.
- 1701 (2) All candling records shall be open for examination by accredited inspectors or

1702 representatives of the department at reasonable times.

1703 Section 53. Section ~~4-4-106~~, which is renumbered from Section 4-4-6 is renumbered
1704 and amended to read:

1705 ~~[4-4-6]~~. **4-4-106. Retailers exempt from prosecution -- Conditions for**
1706 **exemption.**

1707 ~~[No]~~ (1) Subject to Subsection (2), no retailer is subject to prosecution under this
1708 chapter if the retailer can establish that:

1709 (a) at the time ~~[the eggs were]~~ an egg was purchased the seller guaranteed that the
1710 ~~[eggs]~~ egg conformed to the grade ~~[and]~~₂, quality ~~[and]~~₂, size₂, 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]~~₂.

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 54. 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 55. 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"]~~₂; 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 56. 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
1878 judgment of the department such object is of practical functional value to the confectionery
1879 product and would not render the product injurious or hazardous to health;
- 1880 (b) bears or contains any alcohol other than alcohol not in excess of .05% by volume
1881 derived solely from the use of flavoring extracts; or
- 1882 (c) bears or contains any nonnutritive substance; provided, that this Subsection (3)(c)
1883 does not apply to a safe nonnutritive substance that is in or on confectionery by reason of its
1884 use for some practical functional purpose in the manufacture, packaging, or storing of such
1885 confectionery if the use of the substance does not promote deception of the consumer or
1886 otherwise result in adulteration or misbranding in violation of this chapter.
- 1887 (4) The department may, for the purpose of avoiding or resolving uncertainty as to the

1888 application of Subsection (3)(c), issue rules allowing or prohibiting the use of particular
1889 nonnutritive substances.

1890 Section 57. Section **4-5-104**, which is renumbered from Section 4-5-17 is renumbered
1891 and amended to read:

1892 ~~[4-5-17]~~. **4-5-104. Authority to make and enforce rules.**

1893 (1) The department may adopt rules to efficiently enforce this chapter, and if
1894 practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug,
1895 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

1896 (2) Hearings authorized or required by this chapter shall be conducted by the
1897 department or by an officer, agent, or employee designated by the department.

1898 (3) (a) Except as provided by Subsection (3)(b), all pesticide chemical regulations and
1899 their amendments now or hereafter adopted under authority of the Federal Food, Drug, and
1900 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.

1901 (b) The department may adopt a rule that prescribes tolerance for pesticides in finished
1902 foods in this state whether or not in accordance with regulations promulgated under the federal
1903 act.

1904 (4) (a) Except as provided by Subsection (4)(b), all food additive regulations and their
1905 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.

1934 (d) (i) If no substantial objections are received and no hearing is requested within 30
1935 days after publication of a proposed rule, it shall take effect on a date set by the department.

1936 (ii) The effective date shall be at least 60 days after the time for filing objections has
1937 expired.

1938 (e) (i) If timely substantial objections are made to a federal regulation within 30 days
1939 after it is automatically adopted or to a proposed rule within 30 days after it is published, the
1940 department, after notice, shall conduct a public hearing to receive evidence on the issues raised
1941 by the objections.

1942 (ii) Any interested person or [~~his~~] the person's representative may be heard.

1943 (f) (i) The department shall act upon objections by order and shall mail the order to
1944 objectors by certified mail as soon after the hearing as practicable.

1945 (ii) The order shall be based on substantial evidence in the record of the hearing.

1946 (g) (i) If the order concerns a proposed rule, it may withdraw it or set an effective date
1947 for the rule as published or as modified by the order.

1948 (ii) The effective date shall be at least 60 days after publication of the order.

1949 (9) Whenever a regulation is promulgated under authority of the Federal Food, Drug,

1950 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances
1951 established by the department under this chapter shall immediately conform to the standards
1952 established by the Federal Food and Drug Administration as herein provided and shall remain
1953 the same until the department determines that for reasons peculiar to Utah a different rule
1954 should apply.

1955 Section 58. Section **4-5-105**, which is renumbered from Section 4-5-18 is renumbered
1956 and amended to read:

1957 ~~[4-5-18]~~. **4-5-105. Inspection of premises and records -- Authority to take**
1958 **samples -- Inspection results reported.**

1959 (1) An authorized agent of the department upon presenting appropriate credentials to
1960 the owner, operator, or agent in charge, may:

1961 (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
 1990 the owner, operator, or agent in charge a receipt describing the samples obtained.

1991 (7) When in the course of the inspection the officer or employee making the inspection
 1992 obtains a sample of any food and an analysis is made of the sample for the purpose of
 1993 ascertaining whether the food consists in whole or in part of any filthy, putrid, or decomposed
 1994 substance or is otherwise unfit for food, a copy of the results of the analysis shall be furnished
 1995 promptly to the owner, operator, or agent in charge.

1996 Section 59. Section ~~4-5-106~~, which is renumbered from Section 4-5-19 is renumbered
 1997 and amended to read:

1998 ~~[4-5-19]~~. **4-5-106. Publication of reports and information.**

1999 (1) The department shall publish reports summarizing all judgments, decrees, and court
 2000 orders which have been rendered under this chapter, including the nature of the charge and its
 2001 disposition.

2002 (2) The department shall disseminate information regarding food which it considers
 2003 necessary in the interest of public health and for the protection of consumers against fraud.

2004 (3) Nothing in this section [~~shall be construed to prohibit~~] prohibits the department
 2005 from collecting, reporting, and illustrating the results of investigations made by [it] the
 2006 department.

2007 Section 60. Section ~~4-5-201~~, which is renumbered from Section 4-5-8 is renumbered
 2008 and amended to read:

2009 **Part 2. Labels and Regulations**

2010 ~~[4-5-8]~~. **4-5-201. Labeling requirements -- Misbranded food specified.**

2011 (1) The department may require that a label contain specific written, printed, or graphic

2012 information which is:

2013 (a) displayed on the outside container or wrapper of a retail package of an article; or

2014 (b) easily legible through the outside container or wrapper.

2015 [~~1~~] (2) Food is misbranded if:

2016 (a) its label is false or misleading in any way;

2017 (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

2046 (c) in terms which render it likely to be read and understood by the ordinary individual
2047 under customary conditions of purchase and use.

2048 ~~[(5)]~~ (6) If a food is represented as a food for which a definition and standard of
2049 identity has been prescribed by federal regulations or department rules as provided by Section
2050 ~~[4-5-6]~~ [4-5-207](#), it shall:

2051 (a) conform to the definition and standard; and

2052 (b) have a label bearing:

2053 (i) the name of the food specified in the definition and standard; and

2054 (ii) insofar as may be required by the rules, the common names of optional ingredients,
2055 other than spices, flavorings, and colorings, present in the food.

2056 ~~[(6)]~~ (7) If a food is represented as a food for which a standard of quality has been
2057 prescribed by federal regulations or department rules as provided by Section ~~[4-5-6]~~ [4-5-207](#),
2058 and its quality falls below the standard, its label shall bear, in the manner and form as the
2059 regulations or rules specify, a statement indicating that it falls below the standards.

2060 ~~[(7)]~~ (8) If a food is represented as a food for which a standard of fill of container has
2061 been prescribed by federal regulations or department rules as provided by Section ~~[4-5-6]~~
2062 [4-5-207](#), and it falls below the applicable standard of fill, its label shall bear, in the manner and
2063 form as the regulations or rules specify, a statement indicating that it falls below the standard.

2064 ~~[(8)]~~ (9) (a) Any food for which neither a definition nor standard of identity has been
2065 prescribed by federal regulations or department rules as provided by Section ~~[4-5-6]~~ [4-5-207](#)
2066 shall bear labeling clearly giving:

2067 (i) the common or usual name of the food, if any; and

2068 (ii) in case it is fabricated from two or more ingredients, the common or usual name of
2069 each ingredient, except that spices, flavorings, and colorings, other than those sold as such,
2070 may be designated as spices, flavorings, and colorings without naming each.

2071 (b) To the extent that compliance with the requirements of Subsection ~~[(8)]~~ (9)(a)(ii) is
2072 impractical or results in deception or unfair competition, exemptions shall be established by
2073 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 61. 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
2130 of this chapter; and

2131 (ii) the expenses of supervision have been paid.

2132 (4) If an authorized agent of the department finds in any building or vehicle any
2133 perishable food which is unsound, contains any filthy, decomposed, or putrid substance, or may
2134 be poisonous, deleterious to health, or otherwise unsafe, the commissioner or his authorized
2135 agent shall condemn or destroy the food or render it unsalable as human food.

2136 Section 62. Section **4-5-203**, which is renumbered from Section 4-5-10 is renumbered
2137 and amended to read:

2138 ~~[4-5-10]~~. **4-5-203. Food processed, labeled, or repacked at another location --**
2139 **Exemption from labeling requirements by rule.**

2140 (1) The department shall adopt rules exempting food from any labeling requirement of
2141 this chapter that is, in accordance with the practice of the trade, to be processed, labeled or
2142 repacked in substantial quantities at establishments other than those where originally processed
2143 or packed, on condition that the food is not adulterated or misbranded under this chapter upon
2144 removal from such processing, labeling or repacking establishment.

2145 (2) (a) Regulations now or hereafter adopted under authority of the Federal Food,
2146 Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., relating to the exemptions described in
2147 Subsection (1) are automatically effective in this state.

2148 (b) The department may adopt additional rules or amendments to existing rules
2149 concerning exemptions.

2150 Section 63. Section **4-5-204**, which is renumbered from Section 4-5-11 is renumbered
2151 and amended to read:

2152 ~~[4-5-11]~~. **4-5-204. Substances considered unsafe -- Authority in department**
2153 **to regulate quantity and use.**

2154 (1) (a) Any added poisonous or deleterious substance, any food additive, any pesticide
2155 chemical in or on a raw agricultural commodity or any color additive, with respect to any
2156 particular use or intended use, is considered to be unsafe for the purpose of application of
2157 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,

2186 the following which the petitioner, if any, shall furnish:

2187 (a) the name and all pertinent information concerning the substance including:

2188 (i) where available;

2189 (ii) its chemical identity and composition;

2190 (iii) a statement of the conditions of the proposed use, including directions,

2191 recommendations, and suggestions;

2192 (iv) specimens of proposed labeling; and

2193 (v) all relevant data bearing on the physical or other technical effect and the quantity

2194 required to produce such effect;

2195 (b) the probable composition of any substance formed in or on a food resulting from

2196 the use of the substance;

2197 (c) the probable consumption of the substance in the diet of man and animals, taking

2198 into account any chemically or pharmacologically related substance in the diet;

2199 (d) safety factors which, in the opinion of experts qualified by scientific training and
2200 experience to evaluate the safety of the substances for the uses for which they are proposed to
2201 be used, are generally recognized as appropriate for the use of animal experimentation data;

2202 (e) the availability of any needed practicable methods of analysis for determining the
2203 identity and quantity of:

2204 (i) the substance in or on food;

2205 (ii) any substance formed in or on food because of the use of the substance; and

2206 (iii) the pure substance and all intermediates and impurities; and

2207 (f) facts supporting a contention that the proposed use of the substance will serve a
2208 useful purpose.

2209 Section 64. Section **4-5-205**, which is renumbered from Section 4-5-15 is renumbered
2210 and amended to read:

2211 ~~[4-5-15]~~. **4-5-205. Consumer commodities -- Labeling and packaging.**

2212 (1) All labels of consumer commodities, as defined by this chapter, shall conform with
2213 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 65. 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 66. 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 67. 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 68. 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 69. 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 an
2361 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 70. 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 71. 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 72. 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 73. 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 74. 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 75. 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 --

2522 **Exception.**

2523 Except as exempted by Section ~~[4-7-5]~~ 4-7-105, no person may act as an agent[;

2524 ~~broker,]~~ or dealer in this state without being licensed under this chapter.

2525 Section 76. Section ~~4-7-105~~, which is renumbered from Section 4-7-5 is renumbered

2526 and amended to read:

2527 ~~[4-7-5].~~ 4-7-105. Exemptions.

2528 The surety and licensing requirements of this chapter do not apply to:

2529 (1) a livestock market that is bonded as required by laws of the United States and Title

2530 4, Chapter 30, Livestock Markets; or

2531 (2) a cooperative incorporated under the laws of this state or another state, except as to

2532 the receipt of livestock from a nonmember producer.

2533 Section 77. Section ~~4-7-106~~, which is renumbered from Section 4-7-6 is renumbered

2534 and amended to read:

2535 ~~[4-7-6].~~ 4-7-106. Licenses -- Applications.

2536 Application for an agent's[~~broker's,~~] or dealer's license shall be made to the department

2537 upon forms prescribed and furnished by the department[~~The~~], and the application shall state:

2538 (1) the applicant's name, principal address in this state, and date of birth;

- 2539 (2) the applicant's principal address in any location outside Utah;
- 2540 (3) the name and principal address of the person authorized by the applicant to accept
- 2541 service of process in this state on behalf of the applicant during the licensure period;
- 2542 (4) the name and principal address of the applicant's surety if the application is for a
- 2543 dealer's license;
- 2544 (5) a schedule of the commissions, fees, and other charges the applicant intends to
- 2545 collect for services during the period of licensure;
- 2546 (6) the name and address of each principal the applicant intends to represent during the
- 2547 period of licensure; and
- 2548 (7) any other information that the department may require by rule.

2549 Section 78. 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 79. 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 [~~nor 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.

2634 (b) Upon receipt of the verified statements, the commissioner shall bring an action
2635 upon the bond or other security posted on behalf of the consignors who claim amounts due
2636 from the dealer.

2637 (5) (a) If an action is filed upon the bond or other security posted, the commissioner
2638 may require the filing of new security.

2639 (b) Immediately upon recovery in the action described in Subsection (5)(a), the
2640 commissioner shall require the dealer to file a new bond or other security.

2641 (c) ~~[Failure, in either case,]~~ (i) The commissioner may suspend a license if a dealer
2642 fails to file the bond or other security within 10 days after the commissioner's demand [is cause
2643 for suspension of the license until a new bond or other security is filed].

2644 (ii) A suspension described in Subsection (5)(c)(i) shall remain in effect until the dealer
2645 files a new bond or other security.

2646 (d) If the bond or other security posted under this section is not renewed within 10 days
2647 of its expiration date, unless the commissioner states in writing that this is unnecessary, the
2648 commissioner may obtain, after a hearing, the full amount of the bond or other security before
2649 it expires.

2650 Section 80. Section ~~4-7-109~~, which is renumbered from Section 4-7-9 is renumbered
2651 and amended to read:

2652 ~~[4-7-9].~~ **4-7-109. Dealers -- Records mandated -- Records subject to**
2653 **inspection.**

2654 (1) A dealer who receives livestock for sale or consignment shall promptly record:

2655 (a) the name and address of the consignor;

2656 (b) the date received;

2657 (c) the condition and quantity upon arrival;

2658 (d) the date of sale for account of the producer-consignor;

2659 (e) the sale price;

2660 (f) an itemized statement of the charges to be paid by the producer-consignor;

2661 (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 81. 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 82. 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 83. 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 84. 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 85. 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 86. Section ~~4-7-205~~, which is renumbered from Section 4-7-14 is renumbered
2773 and amended to read:

2774 ~~[4-7-14]~~. **4-7-205. Prohibited acts.**

2775 (1) A person licensed under this chapter may not:

2776 (a) make false charges incident to the sale of livestock;

2777 (b) ~~[wilfully]~~ willfully fail to comply with the requirements of Section ~~[4-7-9 or~~
2778 ~~4-7-10]~~ 4-7-109 or 4-7-110;

2779 (c) fail to file a schedule of commissions and charges;

2780 (d) consign livestock without the consent of the producer-consignor for the purpose
2781 of charging more than one commission;

2782 (e) make any false statement to the detriment of the producer regarding current market
2783 conditions for livestock or about the condition or quantity of the livestock consigned for the
2784 account of the producer;

2785 (f) engage in fraud or misrepresentation in the procurement or attempted procurement
2786 of a license; or

2787 (g) act as a dealer or agent and, with intent to defraud, make, draw, utter, or deliver any
 2788 check, draft, or order for the payment of money from any bank or other depository to the owner
 2789 for the purchase price of livestock, when at the time of the making, drawing, uttering, or
 2790 delivery the maker or drawer does not have sufficient funds in or credit with the bank or other
 2791 depository for the payment of the check, draft, or order in full upon its presentation.

2792 (2) (a) The making, drawing, uttering, or delivery of a check, draft, or order in the
 2793 circumstances specified in this section shall be evidence of an intent to defraud.

2794 (b) As used in this section, "credit" means an arrangement or understanding with the
 2795 bank or depository for the payment of the check, draft, or order.

2796 Section 87. Section **4-8-101**, which is renumbered from Section 4-8-1 is renumbered
 2797 and amended to read:

2798 **CHAPTER 8. AGRICULTURAL FAIR TRADE ACT**

2799 ~~[4-8-1].~~ **4-8-101. Title.**

2800 This chapter ~~[shall be known and may be cited]~~ is known as the "Agricultural Fair
 2801 Trade Act."

2802 Section 88. 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 89. 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 90. 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 91. 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 92. 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 93. 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 94. 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 95. 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:

2886 (1) "Correct"~~[-when used in connection with weights and measures,]~~ means
2887 conformance to applicable requirements of this chapter.

2888 (2) "Package" means a commodity put up or packaged before sale in either wholesale
2889 or retail sale units.

2890 (3) "Primary standards" ~~[mean]~~ means the physical standards of the state, described in
2891 Section ~~[4-9-4]~~ 4-9-105, which are the legal reference from which all other standards and
2892 weights and measures are derived.

2893 (4) "Sale from bulk" means the sale of commodities, when the quantity is determined
2894 at the time of sale.

2895 (5) "Secondary standards" means a physical standard which is traceable to primary
2896 standards through comparisons, using acceptable laboratory procedures.

2897 (6) "Weighing and measuring" means the use of weights and measures.

2898 (7) "Weight" means net weight, unless the label declares that the product is sold by
2899 drained weight, in which case~~[-]~~ "weight" means net drained weight.

2900 (8) "Weights and measures" means ~~[weights and measures, and]~~ the instruments or
2901 devices used for weighing or measuring, including an appliance or accessory associated with
2902 the instrument or device.

2903 (9) "Weights and measures registration" means the issuance of a certificate by the
2904 commissioner to a weights and measures user.

2905 (10) "Weights and measures user" means a person who uses weights and measures in
2906 trade or commerce.

2907 Section 96. Section **4-9-103**, which is renumbered from Section 4-9-2 is renumbered
2908 and amended to read:

2909 ~~[4-9-2].~~ **4-9-103. Authority to make rules.**

2910 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative

2911 Rulemaking Act, to make and enforce [such] rules [as in its judgment are] necessary to
2912 administer and enforce this chapter.

2913 Section 97. 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 98. 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 99. 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 100. Section **4-9-107**, which is renumbered from Section 4-9-5.2 is
2953 renumbered 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 101. 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 102. 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 103. 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 104. 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 105. 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 106. Section ~~4-9-113~~, which is renumbered from Section 4-9-9 is renumbered
3053 and amended to read:

3054 ~~[4-9-9]~~. **4-9-113. Bulk sales -- Information furnished to purchaser.**

3055 Whenever the quantity is determined solely by the seller, in the absence of the buyer, all
3056 bulk sales of heating fuel and other bulk sales as determined by the department shall be
3057 accompanied by a delivery ticket containing the following information:

3058 (1) the name and address of the vendor and purchaser;

3059 (2) the date delivered;

3060 (3) the quantity delivered and the quantity upon which the price is based, if different
3061 from the delivered quantity;

3062 (4) a description of the bulk material sold, including any quality representation made in
3063 connection with the sale; and

3064 (5) the number of individually wrapped packages.

3065 Section 107. Section ~~4-9-114~~, which is renumbered from Section 4-9-10 is renumbered

3066 and amended to read:

3067 ~~[4-9-10]~~. 4-9-114. Packaged commodity sales -- Labeling information
3068 specified -- When price per single unit of weight to be displayed.

3069 (1) Any packaged commodity offered for sale shall bear on the outside of the package a
3070 definite, plain, and conspicuous declaration of:

3071 (a) the identity of the commodity in the package, unless the same can easily be
3072 identified through the wrapper or container;

3073 (b) the quantity of contents in terms of weight, measure, or count; and

3074 (c) the name and place of business of the manufacturer, packer, or distributor, if the
3075 packaged commodity is offered for sale, or sold other than on the premises where packaged.

3076 (2) Any package [~~which~~] that is one of a lot containing random weights of the same
3077 commodity and bearing the total sales price of the package shall, in addition to compliance
3078 with Subsection (1) [~~of this section~~], bear on the outside of the package a definite, plain, and
3079 conspicuous declaration of the price per single unit of weight.

3080 Section 108. Section ~~4-9-115~~, which is renumbered from Section 4-9-11 is renumbered
3081 and amended to read:

3082 ~~[4-9-11]~~. 4-9-115. Advertisement of packaged commodity sales --
3083 Requirements.

3084 (1) An advertisement [~~which~~] that promotes a packaged commodity with the retail
3085 price stated shall plainly and conspicuously advertise the quantity required to appear on the
3086 package.

3087 (2) If a dual quantity declaration is required by law, only the declaration that sets forth
3088 the quantity in terms of the smaller unit of weight or measure [~~need~~] shall appear in the
3089 advertisement.

3090 Section 109. Section ~~4-9-116~~, which is renumbered from Section 4-9-12 is renumbered
3091 and amended to read:

3092 ~~[4-9-12]~~. 4-9-116. Unlawful acts specified.

3093 A person may not:

3094 (1) sell, offer, or present for sale a commodity whose weight and measure is less than
3095 the weight and measure represented as being sold, offered, or exposed for sale;

3096 (2) misrepresent the price of a commodity sold, advertised, exposed, or offered for sale

3097 by weight, measure, or count, or [to] represent the price in a manner that misleads or deceives a
3098 person;

3099 (3) use or possess an incorrect weight or measure in commerce;

3100 (4) remove a tag, seal, or mark from a weight or measure without specific written

3101 authorization from the department;

3102 (5) hinder or obstruct an agent of the department dealing with weights and measures in
3103 the performance of the agent's duties; or

3104 (6) operate weights and measures in trade or commerce for the purpose of determining
3105 the weight or measure of a commodity without a valid weights and measures registration issued
3106 by the department.

3107 Section 110. Section ~~4-9-117~~, which is renumbered from Section 4-9-13 is renumbered
3108 and amended to read:

3109 ~~[4-9-13]~~. **4-9-117. Weighing and measuring devices -- Presumption.**

3110 If a weighing or measuring device is in a place where buying or selling is commonly
3111 carried on, there is a rebuttable presumption that the weighing or measuring device is regularly
3112 used for the business purposes of that place.

3113 Section 111. Section ~~4-9-118~~, which is renumbered from Section 4-9-15 is renumbered
3114 and amended to read:

3115 ~~[4-9-15]~~. **4-9-118. Registration of commercial establishments using weights
3116 and measures -- Approved weights and measures inspectors -- Application -- Fee --
3117 Expiration -- Renewal.**

3118 (1) (a) Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3119 department shall establish rules providing for the registration of weights and measures users
3120 and issuance of certification of weights and measures devices to ensure the use of correct
3121 weights and measures in commerce or trade.

3122 (b) The division may:

3123 (i) determine whether weights and measures are correct through:

3124 (A) inspection and testing by a department [~~employees~~] employee; or

3125 (B) acceptance of an inspection and testing report prepared by a registered weights and
3126 measures service person;

3127 (ii) establish standards and qualifications for a registered weights and measures service

3128 [~~persons~~] person; and

3129 (iii) determine the form and content of an inspection and testing report.

3130 (c) A weights and measures user shall register with the department.

3131 (d) [~~Prior to~~] Before granting a registration to a weights and measures user, the
3132 department shall determine whether the weights and measures user complies with the rules
3133 established under Subsection (1)(a).

3134 (e) An applicant shall register with the department[;] in writing, using forms required
3135 by the department.

3136 (f) The department shall issue a registration to an applicant[;] if the department
3137 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.

3166 (b) If a weights and measures user denies access for an inspection required under
3167 Subsection (5)(a), the department may suspend the weights and measures user's registration
3168 until the department is allowed access to the weights and measures user's place of business.

3169 Section 112. Section **4-10-101**, which is renumbered from Section 4-10-1 is
3170 renumbered and amended to read:

3171 **CHAPTER 10. BEDDING, UPHOLSTERED FURNITURE, AND**
3172 **QUILTED CLOTHING INSPECTION ACT**

3173 ~~[4-10-1].~~ **4-10-101. Title.**

3174 This chapter [~~shall be~~] is known [~~and may be cited~~] as the "Bedding, Upholstered
3175 Furniture, and Quilted Clothing Inspection Act."

3176 Section 113. Section **4-10-102**, which is renumbered from Section 4-10-2 is
3177 renumbered and amended to read:

3178 ~~[4-10-2].~~ **4-10-102. Definitions.**

3179 As used in this chapter:

3180 (1) "Article" means a bedding, upholstered furniture, quilted clothing, or filling
3181 material.

3182 (2) "Bedding" means a:

3183 (a) quilted, packing, mattress, or hammock pad; or

3184 (b) mattress, boxspring, comforter, quilt, sleeping bag, studio couch, pillow, or cushion
3185 made with a filling material that can be used for sleeping or reclining.

3186 (3) "Consumer" means a person who purchases, rents, or leases an article for the
3187 article's intended, everyday use.

3188 (4) "Filling material" means cotton, wool, kapok, feathers, down, shoddy, hair, or other
3189 material, or a combination of materials, whether loose or in bags, bales, batting, pads, or other

3190 prefabricated form that is, or can be, used in bedding, upholstered furniture, or quilted clothing.

3191 (5) "Label" means the display of written, printed, or graphic matter upon a tag or upon
3192 the immediate container of a bedding, upholstered furniture, quilted clothing, or filling
3193 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 114. 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 115. 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 116. 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 117. 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 118. 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 119. 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 120. 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
3334 article has a smooth backing, or on suitable surfaces of containers or bales of filling material;
3335 provided, the information required by Section ~~[4-10-7]~~ [4-10-107](#) is indelible and legible.

3336 Section 121. Section **4-10-110**, which is renumbered from Section 4-10-9 is
3337 renumbered and amended to read:

3338 ~~[4-10-9]~~. **4-10-110. Sale of bedding, upholstered furniture, quilted clothing,**
3339 **or filling material -- Tag, stamp, or stencil required -- Secondhand material to bear tag --**
3340 **Presumption -- Owner's own material to be tagged.**

3341 (1) No wholesaler or retailer shall sell any bedding, upholstered furniture, quilted
3342 clothing, or prefabricated filling material, whether the point of origin of such article is inside or
3343 outside the state, unless it is appropriately tagged under Section ~~[4-10-7]~~ [4-10-107](#), or unless it
3344 is appropriately stamped or stenciled under Section ~~[4-10-7 or 4-10-8]~~ [4-10-107](#) or [4-10-109](#).

3345 (2) (a) A retailer who sells used articles shall attach a secondhand material tag before
3346 sale.

3347 (b) Possession of an article by a person who regularly engages in the manufacture,
3348 repair, wholesale, or supply of such articles is presumptive evidence of intent to sell.

3349 (3) (a) A person who repairs "owner's own material" shall immediately upon its receipt
3350 attach an owner's material tag to the article.

3351 (b) The tag shall remain attached to the article until it is actually in the process of
3352 repair and shall be reattached upon completion of repair.

3353 Section 122. Section **4-10-111**, which is renumbered from Section 4-10-10 is
3354 renumbered and amended to read:

3355 ~~[4-10-10]~~. **4-10-111**. **Enforcement -- Inspection authorized -- Samples --**
3356 **Reimbursement for samples -- Warrants.**

3357 (1) (a) The department may access public and private premises where articles subject to
3358 this chapter are manufactured, repaired, stored, or sold for the purpose of determining
3359 compliance with this chapter.

3360 (b) For purposes of determining compliance, the department may:

3361 (i) open any upholstered furniture, bedding, or quilted clothing to obtain a sample for
3362 inspection and analysis of filling material; or

3363 (ii) if considered appropriate by the department, take the entire article for inspection
3364 and analysis.

3365 (c) Upon request, the department shall reimburse the owner or person from whom a
3366 sample or article is taken in accordance with this Subsection (1) for the actual cost of the
3367 sample or article.

3368 (2) Upon request, the department may review and copy any of the records required
3369 under Subsection ~~[4-10-7.3]~~ 4-10-108(2).

3370 (3) The department may proceed immediately, if admittance is refused or a record is
3371 denied, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow
3372 entry upon the premises for the purpose of making inspections and taking samples or articles.

3373 Section 123. Section **4-10-112**, which is renumbered from Section 4-10-11 is
3374 renumbered and amended to read:

3375 ~~[4-10-11]~~. **4-10-112**. **Stop sale, use, or removal order authorized -- Conditions**

3376 **for release specified -- Condemnation or seizure -- Procedure specified -- Award of costs**
3377 **authorized.**

3378 (1) (a) The department may issue a "stop sale, use, or removal order" to any
3379 manufacturer, repairer, wholesaler, or retailer of any designated article or articles which it finds
3380 or has reason to believe violates this chapter.

3381 (b) The order shall be in writing and no article subject to it shall be removed, offered,
3382 or exposed for sale, except upon subsequent written release by the department.

3383 (c) Before a release is issued, the department may require the manufacturer, repairer,
3384 wholesaler, or retailer of the "stopped" article to pay the expense incurred by the department in
3385 connection with the withdrawal of the article from the market.

3386 (2) (a) The department is authorized in a court of competent jurisdiction to seek an
3387 order of seizure or condemnation of any article which violates this chapter or, upon proper
3388 grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of
3389 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 124. 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 125. 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 126. 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:

3418 (1) "Abandoned apiary" means any apiary~~[-(a)]~~ to which the owner or operator fails to
 3419 give reasonable and adequate attention during a given year~~[-with the result that the welfare of a~~
 3420 ~~neighboring colony is jeopardized; or (b) that is not properly identified in accordance with this~~
 3421 ~~chapter.]~~ as determined by the department.

3422 (2) "Apiary" means any place where one or more colonies of bees are located.

3423 (3) "Apiary equipment" means hives, supers, frames, veils, gloves, or other equipment
 3424 used to handle or manipulate bees, honey, wax, or hives.

3425 (4) "Appliance" means any apparatus, tool, machine, or other device used to handle or
 3426 manipulate bees, wax, honey, or hives.

3427 (5) "Bee" means the common honey bee, *Apis mellifera*, at any stage of development.

3428 (6) (a) "Beekeeper" means a person who keeps bees ~~[in order to: (i) collect honey and~~
 3429 ~~beeswax; (ii) pollinate crops; or (iii) produce bees for sale to other beekeepers.]~~

3430 (b) "Beekeeper" includes an ~~[apiarists]~~ apiarist.

3431 (7) "Colony" means an aggregation of bees in any type of hive that includes queens,
 3432 workers, drones, or brood.

3433 (8) "Disease" means any infectious or contagious disease affecting bees, as specified by
 3434 the department, including American foulbrood.

3435 (9) "Hive" means a frame hive, box hive, box, barrel, log, gum skep, or other artificial
 3436 or natural receptacle that may be used to house bees.

3437 (10) "Package" means any number of bees in a bee-tight container, with or without a

3438 queen, and without comb.

3439 (11) "Parasite" means an organism that parasitizes any developmental stage of a bee.

3440 (12) "Pest" means an organism that:

3441 (a) inflicts damage to a bee or bee colony directly or indirectly; or

3442 (b) may damage apiary equipment in a manner that is likely to have an adverse affect
3443 on the health of the colony or an adjacent colony.

3444 (13) "Raise" means:

3445 (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 127. 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 128. 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 [(e)] (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 129. 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 --**
3502 **Compensation.**

3503 (1) The county executive upon the petition of five or more persons who raise bees
3504 within the respective county shall, with the approval of the commissioner, appoint a qualified
3505 person to act as a bee inspector within the county.

3506 (2) A county bee inspector shall be employed at the pleasure of the county executive
3507 and the commissioner[;] and is subject to termination of employment, with or without cause, at
3508 the instance of either.

3509 (3) Compensation for the county bee inspector shall be fixed by the county legislative
3510 body.

3511 (4) To be appointed a county bee inspector, a person shall demonstrate adequate
3512 training and knowledge related to this chapter, bee diseases, and pests.

3513 (5) A record concerning bee inspection shall be kept by the county executive or
3514 commissioner.

3515 (6) The county executive and the commissioner shall investigate a formal, written
3516 complaint against a county bee inspector.

3517 ~~[(7) The department may authorize an inspection if:]~~

3518 ~~[(a) a county bee inspector is not appointed; or]~~

3519 ~~[(b) a conflict of interest arises with a county bee inspector.]~~

3520 Section 130. Section **4-11-106**, which is renumbered from Section 4-11-6 is
3521 renumbered and amended to read:

3522 ~~[4-11-6].~~ **4-11-106. Hives to have removable frames -- Consent of county bee**
3523 **inspector to sell or transport diseased bees.**

3524 (1) A person may not house or keep bees in a hive unless [it] the hive is equipped with
3525 movable frames to all [its] the hive's parts so that access to the hive can be had without
3526 difficulty.

3527 (2) No person who owns or has possession of bees (whether queens or workers) with
3528 knowledge that they are infected with terminal disease, parasites, or pests, or with knowledge
3529 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 131. 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.

3558 ~~[(5) The owner of a diseased apiary, notwithstanding the provisions of Subsections (2),~~
3559 ~~(3), and (4), may elect under the direction of the county bee inspector to kill the diseased bees,~~
3560 ~~seal their hives, and transport them to a licensed wax-salvage plant.]~~

3561 Section 132. Section **4-11-108**, which is renumbered from Section 4-11-8 is

3562 renumbered and amended to read:

3563 ~~[4-11-8]~~. **4-11-108. County bee inspector -- Disinfection required before**
 3564 **leaving apiary with diseased bees.**

3565 (1) Before inspecting the premises of any apiary, an inspector and any assistant of an
 3566 inspector shall disinfect any equipment that will be used in the inspection.

3567 ~~[(1)]~~ (2) Before leaving the premises of any apiary [~~where disease exists~~], the [county]
 3568 bee inspector, or any assistant, shall thoroughly disinfect any part of the inspector's own person,
 3569 clothing, or any appliance that has come in contact with infected material.

3570 ~~[(2)]~~ (3) The method of disinfection required by Subsection ~~[(1)]~~ (2):

3571 (a) may be determined by the department; and

3572 (b) shall be sufficient to destroy disease, parasites, and pathogens encountered.

3573 ~~[(3)]~~ (4) A county bee inspector shall maintain a record of each inspection, including
 3574 disinfection practices.

3575 ~~[(4)]~~ (5) The county executive or the commissioner may review a county bee
 3576 inspector's records kept in accordance with Subsection ~~[(3)]~~ (4).

3577 Section 133. Section **4-11-109**, which is renumbered from Section 4-11-9 is
 3578 renumbered and amended to read:

3579 ~~[4-11-9]~~. **4-11-109. Inspection of apiaries where queen bees raised for sale --**
 3580 **Honey from apiaries where queen bees raised for sale not to be used for candy for**
 3581 **mailing cages unless boiled.**

3582 (1) (a) At least twice each summer the county bee inspector [~~shall~~] may inspect each
 3583 apiary in which queen bees are raised for sale.

3584 (b) A person may not sell or transport any queen bee from an apiary that is found to be
 3585 infected with disease[;] without the consent of the county bee inspector or the department.

3586 (2) No person engaged in raising queen bees for sale shall use any honey for making
 3587 candy for mailing cages that has not been boiled for at least 30 minutes.

3588 (3) A person rearing queens shall follow standard methods for minimizing or
 3589 eliminating unmanageably aggressive stock.

3590 Section 134. Section **4-11-110**, which is renumbered from Section 4-11-10 is
 3591 renumbered and amended to read:

3592 ~~[4-11-10]~~. **4-11-110. Enforcement -- Inspections authorized -- Warrants.**

3593 (1) The department and all [county] bee inspectors shall have access to all apiaries or
3594 places where bees, hives, and appliances are kept for the purpose of enforcing this chapter.

3595 (2) If admittance is refused, the department, or the [county] bee inspector involved,
3596 may proceed immediately to obtain an ex parte warrant from the nearest court of competent
3597 jurisdiction to allow entry upon the premises for the purpose of making an inspection.

3598 Section 135. Section ~~4-11-111~~, which is renumbered from Section 4-11-11 is
3599 renumbered and amended to read:

3600 ~~[4-11-11]~~. **4-11-111. Importation of bees or appliances into state --**
3601 **Certification required -- Inspection discretionary -- Authority to require destruction or**
3602 **removal of diseased bees and appliances.**

3603 (1) (a) A person may not bring or import any bees in packages or hives or bring or
3604 import any used beekeeping equipment or appliances into this state~~[-except after]~~ without
3605 obtaining a certificate from an inspector authorized in the state of origin certifying that:

3606 (i) the bees, apiary equipment, or appliances have been inspected within the current
3607 production season~~[-]~~; and ~~[that]~~

3608 (ii) all diseased colonies in the apiary at the time of the inspection were destroyed or
3609 ~~[removed to a licensed wax-salvage plant before the issuance of the certificate.]~~ treated.

3610 (b) A person bringing or importing bees into the state shall advise the department of
3611 the address of the ~~[bees]~~ bees' destination and furnish the department with a copy of the
3612 certificate of inspection ~~[either: (i) within at least five working days before the bees enter the~~
3613 ~~state; or (ii)]~~ upon entry into the state.

3614 (c) A person intending to hold bees in the state for a period of time exceeding 30 days
3615 shall comply with Section ~~[4-11-4]~~ 4-11-104.

3616 (2) (a) A person may not bring or import any used apiary equipment, except after
3617 obtaining a certificate from an inspector authorized in the state of origin certifying that all
3618 potentially pathogen-conductive apiary equipment or appliances are appropriately sterilized
3619 immediately before importation.

3620 (b) A person bringing or importing used apiary equipment shall advise the department
3621 of the address of the destination in the state and furnish the department with a copy of the
3622 certificate of inspection ~~[either: (i) within at least five working days before the bees enter the~~
3623 ~~state; or (ii)]~~ upon entry into the state.

3624 (3) Used apiary equipment or appliances that have been exposed to terminal disease
3625 may not be sold without the consent of the [county] bee inspector or the commissioner.

3626 (4) In lieu of the certificate required by Subsection (1), the certificate may be a Utah
3627 certificate.

3628 (5) (a) If the department determines it is necessary for any reason to inspect any bees,
3629 apiary equipment, or appliance upon arrival at a destination in this state, and upon this
3630 inspection finds terminal disease, the department shall cause all diseased colonies, appliances,
3631 and equipment to be either:

3632 (i) destroyed immediately; or

3633 (ii) removed from the state within 48 hours.

3634 (b) The costs [~~under~~] of complying with Subsection (5)(a)(i) or (ii) shall be paid by the
3635 person bringing the diseased colonies, appliances, or equipment into the state.

3636 Section 136. Section ~~4-11-112~~, which is renumbered from Section 4-11-12 is
3637 renumbered and amended to read:

3638 ~~[4-11-12].~~ **4-11-112. Quarantine authorized.**

3639 The commissioner, in order to protect the bee industry of the state against bee health or
3640 management issues, may quarantine the entire state, an entire county, or any apiary or specific
3641 hive within the state~~[, as the commissioner considers necessary].~~

3642 Section 137. 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 138. 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.

3670 (4) (a) A registered owner notified under Subsection (3) shall remove the abandoned
3671 apiary, apiary equipment, or appliance or provide a bee-proof enclosure within 15 days.

3672 (b) The [~~county~~] bee inspector or the department shall verify the removal or protection
3673 in accordance with Subsection (4)(a) at the expiration of the 15-day period.

3674 (c) If a registered owner does not comply with Subsection (4)(a), the [~~county~~] bee
3675 inspector or the department may seize and destroy the abandoned apiary, apiary equipment, and
3676 appliances.

3677 (5) A [~~county~~] bee inspector or the department may seize and destroy an abandoned
3678 apiary, apiary equipment, or appliances if the abandoned apiary, apiary equipment, or
3679 appliances do not indicate a registered owner.

3680 Section 139. Section ~~4-11-115~~, which is renumbered from Section 4-11-17 is
3681 renumbered and amended to read:

3682 [~~4-11-17~~]. **4-11-115. Maintaining gentle stock.**

3683 A beekeeper may not intentionally maintain an aggressive or unmanageable stock,
3684 whether African or European in origin.

3685 Section 140. Section ~~4-12-4~~ is amended to read:

3686 **4-12-4. Distribution of commercial and customer-formula feed -- Registration or**
 3687 **permit required -- Application -- Fees -- Expiration -- Renewal.**

3688 (1) No person may distribute a commercial feed in this state which is not registered
 3689 with the department. Application for registration shall be made to the department upon forms
 3690 prescribed and furnished by it accompanied with an annual registration fee, determined by the
 3691 department pursuant to Subsection [~~4-2-2~~] [4-2-103](#)(2), for each brand name of commercial feed
 3692 registered. Upon receipt of a proper application and payment of the appropriate fee, the
 3693 commissioner shall issue a registration to the applicant allowing the applicant to distribute the
 3694 registered commercial feed in this state through December 31 of the year in which the
 3695 registration is issued, subject to suspension or revocation for cause.

3696 (2) A person who distributes customer-formula feed is not required to register such
 3697 feed, but is required to obtain a permit from the department before distribution. Application
 3698 for a customer-formula feed distribution permit shall be made to the department upon forms
 3699 prescribed and furnished by it accompanied with an annual permit fee determined by the
 3700 department pursuant to Subsection [~~4-2-2~~] [4-2-103](#)(2). Upon receipt by the department of a
 3701 proper application and payment of the appropriate fee as prescribed by the department, the
 3702 commissioner shall issue a permit to the applicant allowing the applicant to distribute
 3703 customer-formula feed in this state through December 31 of the year in which the permit is
 3704 issued, subject to suspension or revocation for cause.

3705 (3) Each registration is renewable for a period of one year upon the payment of an
 3706 annual registration renewal fee in an amount equal to the current applicable original
 3707 registration fee. Each renewal fee shall be paid on or before December 31 of each year.

3708 (4) A customer-formula feed permit is renewable for a period of one year upon the
 3709 payment of an annual permit renewal fee in an amount equal to the current applicable original
 3710 permit fee. Each permit renewal fee shall be paid on or before December 31 of each year.

3711 Section 141. Section **4-13-101**, which is renumbered from Section 4-13-1 is
 3712 renumbered and amended to read:

3713 **CHAPTER 13. UTAH FERTILIZER ACT**

3714 ~~[4-13-1].~~ **4-13-101. Title.**

3715 This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Fertilizer Act."

3716 Section 142. Section **4-13-102**, which is renumbered from Section 4-13-2 is

3717 renumbered and amended to read:

3718 ~~[4-13-2]~~. **4-13-102. Definitions.**

3719 As used in this chapter:

3720 (1) "Adulterated fertilizer" means any commercial fertilizer that contains an ingredient
3721 that renders it injurious to beneficial plant life when applied in accordance with the directions
3722 on the label, or contains crop or weed seed, or is inadequately labeled to protect plant life.

3723 (2) "Brand" means any term, design, or trade mark used in connection with one or
3724 several grades of commercial fertilizer or soil amendment.

3725 (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 (P₀) _____ percent

3754 Soluble potash (K₀) _____ 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 143. 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 144. 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 145. 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 146. 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
3894 if the overall index value of the official sample is below the level established by rule.

3895 (2) If an official sample, after analysis, demonstrates the guaranteed analysis is
3896 deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance
3897 prescribed by rule, or if the over-all index value of the official sample is below the level
3898 established by rule, a penalty of three times the commercial value of the deficiency or
3899 deficiencies of the lot represented by the official sample may be assessed against the registrant.

3900 (3) All penalties assessed under this section shall be paid to the department within
3901 three months after notice from the department.

3902 (4) Any registrant aggrieved by the finding of an official sample deficiency may file a

3903 complaint with a court of competent jurisdiction to vacate or amend the finding of the
3904 department.

3905 Section 147. Section **4-13-107**, which is renumbered from Section 4-13-7 is
3906 renumbered and amended to read:

3907 ~~[4-13-7]~~. **4-13-107. Department to publish commercial values applied to**
3908 **components of commercial fertilizer.**

3909 The department shall annually publish the values per unit of nitrogen, available
3910 phosphoric acid, and soluble potash in commercial fertilizers in this state for the purpose of
3911 notifying registrants of the commercial value to be applied to commercial fertilizers under
3912 Section ~~[4-13-6]~~ 4-13-106.

3913 Section 148. Section **4-13-108**, which is renumbered from Section 4-13-8 is
3914 renumbered and amended to read:

3915 ~~[4-13-8]~~. **4-13-108. Suspension or revocation authorized -- Refusal to register**
3916 **authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action --**
3917 **Procedure -- Costs.**

3918 (1) The department may revoke or suspend the registration of any brand of commercial
3919 fertilizer or soil amendment, or refuse to register any brand of commercial fertilizer or soil
3920 amendment upon satisfactory evidence that the registrant has used fraudulent or deceptive
3921 practices in registration or distribution in this state.

3922 (2) (a) The department may issue a "stop sale, use or removal order" to the owner or
3923 person in possession of any designated lot of commercial fertilizer or soil amendment which it
3924 finds or has reason to believe is being offered or exposed for sale in violation of this chapter.

3925 (b) The order shall be in writing and no commercial fertilizer or soil amendment
3926 subject to it shall be moved or offered or exposed for sale, except upon the subsequent written
3927 release of the department.

3928 (c) Before a release is issued, the department may require the owner or person in
3929 possession of the "stopped" lot to pay the expense incurred by the department in connection
3930 with the withdrawal of the product from the market.

3931 (3) (a) The department is authorized in a court of competent jurisdiction to seek an
3932 order of seizure or condemnation of any fertilizer which violates this chapter or, upon proper
3933 grounds, to obtain a temporary restraining order or permanent injunction, to prevent violation

3934 of this chapter.

3935 (b) No bond shall be required of the department in any injunctive proceeding under this
3936 section.

3937 (4) If condemnation is ordered, the fertilizer or soil amendment shall be disposed of as
3938 the court directs; provided, that in no event shall it order condemnation without giving the
3939 claimant of the fertilizer or soil amendment an opportunity to apply to the court for permission
3940 to relabel, reprocess, or otherwise bring the product into conformance, or to remove it from the
3941 state.

3942 (5) If the court orders condemnation of the commercial fertilizer or soil amendment,
3943 court costs, fees, storage, and other expenses shall be awarded against the claimant of the
3944 fertilizer or soil amendment.

3945 Section 149. Section ~~4-13-109~~, which is renumbered from Section 4-13-9 is
3946 renumbered and amended to read:

3947 ~~[4-13-9]~~. 4-13-109. **Sales or exchanges of commercial fertilizers or soil**
3948 **amendments between manufacturers, importers, or manipulators permitted.**

3949 Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of
3950 commercial fertilizers or soil amendments to each other by importers, manufacturers, or
3951 manipulators who mix fertilizer or soil amendment materials for sale or as preventing the free
3952 and unrestricted shipment of commercial fertilizer or soil amendments to manufacturers or
3953 manipulators who have registered their brands as required by this chapter.

3954 Section 150. Section ~~4-14-101~~, which is renumbered from Section 4-14-1 is
3955 renumbered and amended to read:

3956 **CHAPTER 14. UTAH PESTICIDE CONTROL ACT**

3957 ~~[4-14-1]~~. 4-14-101. **Title.**

3958 This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Utah Pesticide Control Act."

3959 Section 151. Section ~~4-14-102~~, which is renumbered from Section 4-14-2 is
3960 renumbered and amended to read:

3961 ~~[4-14-2]~~. 4-14-102. **Definitions.**

3962 As used in this chapter:

3963 (1) "Active ingredient" means an ingredient that:

3964 (a) prevents, destroys, repels, controls, or mitigates pests; or

- 3965 (b) acts as a plant regulator, defoliant, or desiccant.
- 3966 (2) "Adulterated pesticide" means a pesticide with a strength or purity that is below the
3967 standard of quality expressed on the label under which [†] the pesticide is offered for sale.
- 3968 (3) "Animal" means all vertebrate or invertebrate species.
- 3969 (4) "Beneficial insect" means an insect that is:
- 3970 (a) an effective pollinator of plants;
- 3971 (b) a parasite or predator of pests; or
- 3972 (c) otherwise beneficial.
- 3973 (5) "Defoliant" means a substance or mixture intended to cause leaves or foliage to
3974 drop from a plant, with or without causing abscission.
- 3975 (6) "Desiccant" means a substance or mixture intended to artificially accelerate the
3976 drying of plant or animal tissue.
- 3977 (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 Nematelminthes 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 substances₂ including a living organism₂ 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 152. 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;

4118 (ii) showing evidence of competence in the pesticide profession, as established by rule,

4119 and complying with the rules adopted by the department under this chapter;

- 4120 (iii) demonstrating good character;
- 4121 (iv) having no outstanding infractions and owing no money to the department; and
- 4122 (v) paying the license fee determined by the department according to Subsection
- 4123 ~~[4-2-2]~~ 4-2-103(2).

4124 (b) A person may apply for a triennial license that expires on December 31 of the

4125 second calendar year after the calendar year in which the license is issued.

4126 (c) Notwithstanding Section 63J-1-504, the department shall retain the fees as

4127 dedicated credits and may only use the fees to administer and enforce this title.

4128 Section 153. Section ~~4-14-104~~, which is renumbered from Section 4-14-4 is

4129 renumbered and amended to read:

4130 ~~[4-14-4]~~. **4-14-104. Labeling requirement for pesticides specified.**

4131 (1) Each container of pesticide distributed in this state shall bear a label setting forth:

- 4132 (a) the name, brand, or trademark under which ~~[it]~~ the pesticide is distributed;
- 4133 (b) subject to Subsection (2), an accurate statement of the ingredients on ~~[that]~~:
- 4134 (i) the part of the immediate container ~~[(and)]~~ that is presented or displayed under
- 4135 customary conditions of purchase; and

4136 (ii) on the outside container and wrapper of the retail package, if there be one, through

4137 which the ingredient statement on the immediate container cannot be clearly read~~)]~~ ~~which is~~

4138 ~~presented or displayed under customary conditions of purchase; provided, that the ingredient~~

4139 ~~statement may appear prominently on another part of the container as permitted pursuant to~~

4140 ~~Section 2(q)(2)(A) of FIFRA if the size or form of the container makes it impracticable to place~~

4141 ~~it on the part of the retail package which is presented or displayed under customary conditions~~

4142 ~~of purchase;];~~

4143 (c) a warning or caution statement if necessary, which, if complied with together with

4144 any requirements imposed under Section 3(d) of FIFRA, is adequate to protect ~~[the]~~ health and

4145 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 in case of poisoning
4167 by the pesticide.

4168 Section 154. 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
4174 that the applicant needs such a permit in order to accumulate information necessary to register
4175 a pesticide under Section ~~[4-14-3]~~ 4-14-103; or

4176 (b) refuse to issue an experimental permit if ~~[it]~~ the department determines that
4177 issuance is not warranted or that the pesticide use to be made under the proposed terms and
4178 conditions may cause unreasonable adverse effects on the environment.

4179 (2) The department may also with respect to issuance of an experimental use permit:

4180 (a) prescribe the terms and conditions for the conduct of the experimental use ~~[which]~~
4181 that in all events shall be under the supervision of the department; and

4182 (b) revoke or modify any experimental use permit if [it] the department determines that
4183 the terms or conditions of the experimental use are being violated, or that the terms and
4184 conditions prescribed are inadequate to avoid unreasonable adverse effects to the environment.

4185 (3) Application for an experimental use permit may be made before, after, or
4186 simultaneously with an application for registration.

4187 Section 155. Section ~~4-14-106~~, which is renumbered from Section 4-14-6 is
4188 renumbered and amended to read:

4189 ~~[4-14-6]~~. **4-14-106. Department authorized to make and enforce rules.**

4190 The department may, by following the procedures and requirements of Title 63G,
4191 Chapter 3, Utah Administrative Rulemaking Act, adopt rules to:

4192 (1) declare as a pest any form of plant or animal life that is injurious to health or the
4193 environment, except:

4194 (a) a human being; or

4195 (b) a bacteria, virus, or other microorganism on or in a living person or animal;

4196 (2) establish, in accordance with the regulations [~~promulgated~~] issued by the EPA
4197 under 7 U.S.C. Sec. 136w(c)(2), whether pesticides registered for special local needs under the
4198 authority of 7 U.S.C. Sec. 136v(c) are highly toxic to man;

4199 (3) establish, consistent with EPA regulations, that certain pesticides or quantities of
4200 substances contained in these pesticides are injurious to the environment;

4201 (4) adopt a list of "restricted use pesticides" for the state or designated areas within the
4202 state if [it] the department determines upon substantial evidence presented at a public hearing
4203 and upon recommendation of the pesticide committee that restricted use is necessary to prevent
4204 damage to property or to the environment;

4205 (5) establish qualifications for a pesticide applicator business; and

4206 (6) adopt any rule, not inconsistent with federal regulations [~~promulgated~~] issued under
4207 FIFRA, considered necessary to administer and enforce this chapter, including rules relating
4208 to the sale, distribution, use, and disposition of pesticides if necessary to prevent damage and to
4209 protect the public health.

4210 Section 156. Section ~~4-14-107~~, which is renumbered from Section 4-14-7 is
4211 renumbered and amended to read:

4212 ~~[4-14-7]~~. **4-14-107. Enforcement -- Inspection and sampling authorized --**

4213 **Notice of deficiency to be given registrant -- Objects of inspection delineated -- Warrants.**

4214 (1) The department, to determine compliance with this chapter, shall periodically;

4215 (a) sample, inspect, and analyze pesticides distributed within this state;

4216 (b) observe and investigate the use and application of pesticides within this state; and

4217 (c) inspect equipment used to apply pesticides in this state to determine if ~~they~~4218 ~~comply~~ the equipment complies with this chapter.

4219 (2) (a) If a pesticide sample, upon analysis, fails to comply with this chapter, the

4220 department shall give written notice to that effect to the registrant or owner of the pesticide.

4221 (b) Nothing in this chapter, however, shall be construed as requiring the department to

4222 refer minor violations for criminal prosecution or for the institution of condemnation

4223 proceedings if ~~it~~ the department believes the public interest will best be served through

4224 informal action.

4225 (3) The department, for the purpose of enforcing this section, is authorized at

4226 reasonable times~~;~~ to enter any private or public premises for the purpose of:

4227 (a) inspecting any equipment used in applying pesticides;

4228 (b) inspecting or sampling lands actually or reported to be exposed to pesticides;

4229 (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 157. 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 158. 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 159. 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.**

4286 (1) As an affirmative defense to any action brought as a result of the alleged misuse or
4287 misapplication of a pesticide, a person may present evidence that as of the time of the alleged
4288 violation, the person was in compliance with label directions, this chapter, and any rules issued
4289 in accordance with this chapter.

4290 (2) A person is not liable for injuries resulting from the misuse or misapplication of a
4291 pesticide unless the person was negligent.

4292 Section 160. Section **4-14-111**, which is renumbered from Section 4-14-13 is
4293 renumbered and amended to read:

4294 ~~[4-14-13]~~. **4-14-111. Registration required for a pesticide business.**

4295 (1) A pesticide applicator business shall register with the department by:

4296 (a) submitting an application on a form provided by the department;

4297 (b) paying the registration fee; and

4298 (c) certifying that the business is in compliance with this chapter and departmental
4299 rules authorized by this chapter.

4300 (2) (a) By following the procedures and requirements of Section [63J-1-504](#), the
4301 department shall establish a registration fee based on the number of pesticide applicators
4302 employed by the pesticide applicator business.

4303 (b) (i) Notwithstanding Section [63J-1-504](#), the department shall deposit the fees as
4304 dedicated credits and may only use the fees to administer and enforce this chapter.

4305 (ii) The Legislature may annually designate the revenue generated from the fee as

4306 nonlapsing in an appropriations act.

4307 (3) The department shall issue a business registration certificate to a pesticide
4308 applicator business if the individual or entity:

4309 (a) has complied with the requirements of this section;

4310 (b) has shown evidence of competence in the pesticide profession and meets the
4311 certification requirements established by rule;

4312 (c) demonstrates good character;

4313 (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 161. Section **4-15-101**, which is renumbered from Section 4-15-1 is
4328 renumbered and amended to read:

CHAPTER 15. THE UTAH NURSERY ACT

~~[4-15-1]~~. **4-15-101. Title.**

This chapter ~~[shall be known and may be cited]~~ is known as "The Utah Nursery Act."

4332 Section 162. Section **4-15-102**, which is renumbered from Section 4-15-1.5 is
4333 renumbered and amended to read:

~~[4-15-1.5]~~. **4-15-102. Background and purpose.**

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 163. 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 164. 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 165. 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 166. 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 167. 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.**

4454 (1) Each type of nursery stock delivered to a nursery or nursery outlet for subsequent
4455 wholesale or retail sale shall:

4456 (a) be sized and graded in accordance with the applicable rules of the department; and

4457 (b) bear a tag or label with the name, grade, size, and variety of the stock.

4458 (2) Each bundle, single lot, or single nursery stock sold at retail shall bear a secure tag
4459 or label with the common or botanical name, grade, size, and variety of the stock legibly
4460 printed or written on [it] the bundle, single lot, or single nursery stock.

4461 Section 168. Section **4-15-108**, which is renumbered from Section 4-15-7 is
4462 renumbered and amended to read:

4463 ~~[4-15-7]~~. **4-15-108. Inspection -- Issuance of certificate -- Destruction of**
4464 **infested or diseased stock.**

4465 (1) (a) Each nursery may be inspected by the department at least once each year.

4466 (b) If, upon the inspection described in Subsection (1)(a), it appears that the nursery
4467 and [its] the nursery's stock are free of insect pests and plant disease, the department shall issue
4468 [a] an inspection certificate [to that effect] to the nursery.

4469 (2) (a) Each nursery outlet may be inspected by the department at least once each year
4470 during the period nursery stock is offered for retail sale. [An inspection certificate may be
4471 issued by the department]

4472 (b) The department may issue an inspection certificate to a nursery outlet to permit the
4473 interstate shipment of nursery stock if the stock contemplated for shipment appears free of
4474 insect pests and plant disease.

4475 (3) Nursery stock found to be infested with insect pests or infected with plant disease
4476 shall be destroyed or otherwise treated as determined by the department.

4477 Section 169. Section **4-15-109**, which is renumbered from Section 4-15-8 is
4478 renumbered and amended to read:

4479 ~~[4-15-8]~~. **4-15-109. Transport of out-of-state nursery stock to Utah --**
4480 **Certificate of inspection to be filed with department by out-of-state nurseries -- Option in**
4481 **department to accept exchange list in lieu of certificate of inspection -- Imported stock to**
4482 **be tagged -- Treatment of stock not tagged.**

4483 ~~[(1) Out-of-state]~~

4484 (1) (a) Subject to Subsection (1)(b), out-of-state nurseries and nursery outlets
4485 transporting nursery stock to a nursery or nursery outlet in this state shall annually deliver to
4486 the department a certified duplicate copy of the "state of origin" certificate of inspection for
4487 each such out-of-state nursery or nursery outlet[; provided, that the].

4488 (b) The department may accept and exchange a list of certified or licensed out-of-state
4489 nurseries or nursery outlets in lieu of a certificate of inspection for each such individual nursery
4490 or nursery outlet.

4491 (2) Nursery stock originating outside and imported into this state for customer delivery

4492 or for resale shall bear a tag:

4493 (a) stating that the nursery stock has been inspected and certified free from plant pests
4494 and disease[. ~~The tag shall also bear~~]; and

4495 (b) bearing the name and address of the shipper or consignor.

4496 (3) A shipment of nursery stock destined for delivery in this state [~~which~~] that is not
4497 accompanied with [~~such a tag~~] the tag described in Subsection (2) may be:

4498 (a) returned to the owner or consignor at [~~such person's expense, or may be~~] the owner
4499 or consignor's expense; or

4500 (b) destroyed, or otherwise disposed of, by the department without compensation to the
4501 owner or consignor.

4502 Section 170. Section **4-15-110**, which is renumbered from Section 4-15-9 is
4503 renumbered and amended to read:

4504 ~~[4-15-9].~~ **4-15-110. Nursery stock offered or advertised for sale -- Unlawful to**
4505 **misrepresent name, origin, grade, variety, quality, or vitality -- Information required in**
4506 **advertisements.**

4507 ~~[No]~~ (1) A person shall not misrepresent the name, origin, grade, variety, quality, or
4508 indice of vitality of any nursery stock advertised or offered for sale at a nursery or nursery
4509 outlet.

4510 (2) All advertisements of nursery stock shall clearly state the name, size, and grade of
4511 the stock where applicable.

4512 Section 171. 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 172. 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 173. 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 174. 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 175. Section ~~4-16-101~~, which is renumbered from Section 4-16-1 is
4565 renumbered and amended to read:

4566 **Part 1. Organization**

4567 [~~4-16-1~~]. **4-16-101. Short title.**

4568 This chapter [~~shall be~~] is known [~~and may be cited~~] as the "Utah Seed Act."

4569 Section 176. Section ~~4-16-102~~, which is renumbered from Section 4-16-2 is
4570 renumbered and amended to read:

4571 [~~4-16-2~~]. **4-16-102. Definitions.**

4572 As used in this chapter:

4573 (1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or
4574 ground stock other than those on the label of a seed container, disseminated in any manner.

4575 (2) "Agricultural seeds" mean seeds of grass, forage plants, cereal crops, fiber crops,
4576 sugar beets, seed potatoes, or any other kinds of seed or mixtures of seed commonly known
4577 within this state as agricultural or field seeds.

4578 (3) "Flower seeds" mean seeds of herbaceous plants grown for their blooms,
4579 ornamental foliage, or other ornamental plants commonly known and sold under the name of
4580 flower seeds in this state.

4581 (4) "Foundation seed," "registered seed," or "certified seed" means seed that is
4582 produced and labeled in accordance with procedures officially recognized by a seed certifying
4583 agency approved and accredited in this state.

4584 (5) (a) "Hybrid" means the first generation seed of a cross produced by controlling

4585 pollination and by combining:

4586 (i) two or more inbred lines;

4587 (ii) one inbred or a single cross with an open-pollinated variety; or

4588 (iii) two varieties or species, except open-pollinated varieties of corn, *Zea mays*.

4589 (b) The second generation and subsequent generations from the crosses referred to in
4590 Subsection (5)(a) are not to be regarded as hybrids.

4591 (c) Hybrid designations shall be treated as variety names.

4592 (6) "Kind" means one or more related species or subspecies of seed which singly or
4593 collectively is known by one name, for example, corn, oats, alfalfa, and timothy.

4594 (7) (a) "Label" means any written, printed, or graphic representation accompanying and
4595 pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.

4596 (b) "Label" includes representations on invoices, bills, and letterheads.

4597 (8) "Lot" means a definite quantity of seed identified by a number or other mark, every
4598 part or bag of which is uniform within recognized tolerances.

4599 (9) "Noxious-weed seeds" mean weed seeds declared noxious by the commissioner.

4600 (10) "Pure seed," "germination," or other terms in common use for testing seeds for
4601 purposes of labeling shall have ascribed to them the meaning set forth for such terms in the
4602 most recent edition of "Rules for Seed Testing" published by the Association of Official Seed
4603 Analysts.

4604 (11) "Seeds for sprouting" means seeds sold for sprouting for salad or culinary
4605 purposes.

4606 (12) "Sowing" means the placement of agricultural seeds, vegetable seeds, flower
4607 seeds, tree and shrub seeds, or seeds for sprouting in a selected environment for the purpose of
4608 obtaining plant growth.

4609 (13) "Treated" means seed that has received an application of a substance to reduce,
4610 control, or repel certain disease organisms, fungi, insects or other pests which may attack the
4611 seed or its seedlings, or has received some other treatment to improve its planting value.

4612 (14) "Tree and shrub seeds" mean seeds of woody plants commonly known and sold
4613 under the name of tree and shrub seeds in this state.

4614 (15) "Variety" means a subdivision of a kind characterized by growth, yield, plant,
4615 fruit, seed, or other characteristic, which differentiate it from other plants of the same kind.

4616 (16) "Vegetable seeds" mean seeds of crops grown in gardens or on truck farms that
4617 are generally known and sold under the name of vegetable seeds, plants, bulbs, and ground
4618 stocks in this state.

4619 (17) "Weed seeds" mean seeds of any plant generally recognized as a weed within this
4620 state.

4621 Section 177. 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 178. Section ~~4-16-201~~, which is renumbered from Section 4-16-4 is
4633 renumbered and amended to read:

4634 **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 179. 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;
4818 provided, that the caution statement for mercurials and similarly toxic substances, as defined by
4819 rule of the department, shall state the seed has been treated with poison with "POISON" printed
4820 in red letters on a background of distinctly contrasting color together with a representation of
4821 the skull and crossbones.

4822 (3) A person may not:
4823 (a) use the word "trace" as a substitute for a statement required under this chapter;
4824 (b) disseminate any false or misleading advertisement about agricultural, vegetable,
4825 flower, or tree and shrub seed or seeds for sprouting; or
4826 (c) detach, alter, or destroy any label or substitute any seed in a manner which defeats
4827 the purpose of this chapter.

4828 Section 180. Section **4-16-203**, which is renumbered from Section 4-16-7 is
4829 renumbered and amended to read:

4830 ~~[4-16-7]~~. **4-16-203. Inspection -- Samples -- Analysis -- Seed testing facilities**
4831 **to be maintained -- Rules to control offensive seeds -- Notice of offending seeds --**
4832 **Warrants.**

4833 (1) (a) The department shall periodically enter public or private premises from which
 4834 seeds are distributed, offered, or exposed for sale to sample, inspect, analyze, and test
 4835 agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting distributed within
 4836 this state to determine compliance with this chapter.

4837 (b) To perform the duties specified in Subsection (1)(a), the department shall:

4838 (i) establish and maintain facilities for testing the purity and germination of seeds;

4839 (ii) prescribe by rule uniform methods for sampling and testing seeds; and

4840 (iii) establish fees for rendering service.

4841 (2) The department shall prescribe by rule weed seeds and noxious weed seeds and fix
 4842 the tolerances permitted for those offensive seeds.

4843 (3) (a) If a seed sample, upon analysis, fails to comply with this chapter, the department
 4844 shall give written notice to that effect to any person who is distributing, offering, or exposing
 4845 the seeds for sale. [Nothing]

4846 (b) Notwithstanding Subsection (3)(a), nothing in this chapter[~~however,~~] shall be
 4847 construed as requiring the department to refer minor violations for criminal prosecution or for
 4848 the institution of condemnation proceedings if it believes the public interest will best be served
 4849 through informal action.

4850 (4) The department may proceed immediately, if admittance is refused, to obtain an ex
 4851 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
 4852 for the purpose of making inspections and obtaining samples.

4853 Section 181. Section **4-16-301**, which is renumbered from Section 4-16-8 is
 4854 renumbered and amended to read:

4855 **Part 3. Enforcement**

4856 **[4-16-8]. 4-16-301. Enforcement -- Stop sale, use, or removal authorized --**
 4857 **Court action -- Procedures -- Costs.**

4858 (1) (a) The department may issue a "stop sale, use, or removal order" to the distributor,
 4859 owner, or person in possession of any designated agricultural, vegetable, flower, or tree and
 4860 shrub seed or seeds for sprouting or lot of seed which it finds or has reason to believe violates
 4861 this chapter.

4862 (b) The order shall be in writing and no seed subject to it shall be moved, offered, or
 4863 exposed for sale, except upon subsequent written release by the department.

4864 (c) Before a release is issued, the department may require the distributor or owner of
4865 the "stopped" seed or lot to pay the expense incurred by the department in connection with the
4866 withdrawal of the product from the market.

4867 (2) (a) The department is authorized in a court of competent jurisdiction to seek an
4868 order of seizure or condemnation of any seed which violates this chapter or, upon proper
4869 grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of
4870 this chapter.

4871 (b) No bond may be required of the department in an injunctive proceeding brought
4872 under this section.

4873 (3) (a) If condemnation is ordered, the seed shall be disposed of as the court directs.

4874 (b) The court may not order condemnation without giving the claimant of the seed an
4875 opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the
4876 seed into conformance, or for permission to remove it from the state.

4877 (c) If the court orders condemnation, court costs, fees, storage, and other costs shall be
4878 awarded against the claimant of the seed.

4879 Section 182. Section **4-16-302**, which is renumbered from Section 4-16-10 is
4880 renumbered and amended to read:

4881 **~~[4-16-10]~~. 4-16-302. False or misleading advertising with respect to seed**
4882 **quality prohibited.**

4883 Unless agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting
4884 sold, advertised, or exposed or offered for sale in this state for propagation or planting have
4885 been registered or certified by an officially recognized seed certifying agency approved and
4886 accredited in this state, a person may not:

4887 (1) use orally or in writing:

4888 (a) the term "foundation," "registered," or "certified" seed along with other words; or

4889 (b) any other term or form of words which suggests that the seed has been certified or
4890 registered by an inspection agency duly authorized by any state, or that there has been
4891 registration or certification, or either; or

4892 (2) use any tags similar to registration or certification tags.

4893 Section 183. Section **4-16-303**, which is renumbered from Section 4-16-11 is
4894 renumbered and amended to read:

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 186. Section ~~4-17-101~~, which is renumbered from Section 4-17-1 is
 4942 renumbered and amended to read:

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 187. 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[~~;~~];

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.

4958 (4) "Noxious weed" means any plant the commissioner determines to be especially
4959 injurious to public health, crops, livestock, land, or other property.

4960 Section 188. Section **4-17-103**, which is renumbered from Section 4-17-3 is
4961 renumbered and amended to read:

4962 ~~[4-17-3]~~. **4-17-103. Commissioner -- Functions, powers, and duties.**

4963 The commissioner ~~[has the following powers and duties]~~ or the commissioner's
4964 designee shall:

4965 (1) ~~[investigates and designates]~~ investigate and designate noxious weeds on a
4966 statewide basis;

4967 (2) ~~[compiles and publishes]~~ compile and publish annually a list of statewide noxious
4968 weeds;

4969 (3) ~~[coordinates and assists]~~ coordinate and assist in inter-county noxious weed
4970 enforcement activities;

4971 (4) ~~[determines]~~ determine whether each county complies with this chapter;

4972 (5) ~~[assists]~~ assist a county ~~[which]~~ that fails to carry out the provisions of this chapter
4973 in ~~[its]~~ the county's implementation of a weed control program;

4974 (6) ~~[prescribes]~~ prescribe the form and general substantive content of notices to the
4975 public and to individuals concerning the prevention and control of noxious weeds;

4976 (7) ~~[compiles and publishes]~~ compile and publish a list of articles capable of
4977 disseminating noxious weeds or seeds and designate treatment to prevent dissemination; and

4978 (8) ~~[regulates]~~ regulate the flow of contaminated articles into the state and between
4979 counties to prevent the dissemination of noxious weeds or seeds.

4980 Section 189. Section **4-17-104**, which is renumbered from Section 4-17-3.5 is
4981 renumbered and amended to read:

4982 ~~[4-17-3.5]~~. **4-17-104. Creation of State Weed Committee -- Membership --**
4983 **Powers and duties -- Expenses.**

4984 (1) There is created a State Weed Committee composed of ~~[eight]~~ seven members,
4985 with each member representing one of the following:

4986 (a) the Department of Agriculture and Food;

4987 ~~[(b) the Department of Natural Resources;]~~

4988 [~~(e)~~] (b) the Utah State University Agricultural Experiment Station;

4989 [~~(d)~~] (c) the Utah State University Extension Service;

4990 [~~(e)~~] (d) the Utah Association of Counties;

4991 [~~(f)~~] (e) private agricultural industry;

4992 [~~(g)~~] (f) the Utah Weed Control Association; and

4993 [~~(h)~~] (g) 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 190. 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 191. 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 192. 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 193. 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 194. 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 195. 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.

5126 (b) The property owner of record or the person in possession of the property, as the
5127 case may be, shall reimburse the county for the county's expense within 90 days after receipt of
5128 the [charges incurred by the county.] demand for payment, as described in Subsection (2)(a).

5129 (c) If the demand for payment is not paid within 90 days after [notice of the charges]
5130 receipt, the charges become a lien against the property and are collectible by the county
5131 treasurer at the time general property taxes are collected.

5132 Section 196. Section **4-17-111**, which is renumbered from Section 4-17-8.5 is
5133 renumbered and amended to read:

5134 ~~[4-17-8.5].~~ **4-17-111. Hearing before county weed control board -- Appeal of**
5135 **decision to the county legislative body -- Judicial review.**

5136 (1) Any person served with notice to control noxious weeds may request a hearing to
5137 appeal the terms of the notice before the county weed control board within 10 days of receipt of
5138 such notice and may appeal the decision of the county weed control board to the county
5139 legislative body.

5140 (2) Any person served with notice to control noxious weeds who has had a hearing
5141 before both the county weed control board and the county legislative body may further appeal
5142 the decision of the county legislative body by filing written notice of appeal with a court of

5143 competent jurisdiction.

5144 Section 197. Section ~~4-17-112~~, which is renumbered from Section 4-17-10 is
5145 renumbered and amended to read:

5146 ~~[4-17-10]~~. **4-17-112. Jurisdiction of state and local agencies to control weeds.**

5147 The departments or agencies of state and local governments shall develop, implement,
5148 and pursue an effective program for the control and containment of noxious weeds on all lands
5149 under ~~[their]~~ the department's or agency's control or jurisdiction, including highways,
5150 roadways, rights-of-way, easements, game management areas, and state parks and recreation
5151 areas.

5152 Section 198. Section ~~4-17-113~~, which is renumbered from Section 4-17-11 is
5153 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 199. 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]~~ 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 200. 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]~~ 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 201. Section **4-18-101** is amended to read:

5212 **CHAPTER 18. CONSERVATION COMMISSION ACT**

5213 **Part 1. Duties and Administration**

5214 **4-18-101. Title.**

5215 This chapter is known as the "Conservation Commission Act."

5216 Section 202. Section **4-18-102** is amended to read:

5217 **4-18-102. Purpose declaration.**

5218 (1) The Legislature finds and declares that:

5219 (a) the soil and water resources of this state constitute one of [~~its~~] the state's basic
 5220 assets; and

5221 (b) the preservation of [~~these~~] soil and water resources requires planning and programs
 5222 to ensure:

5223 (i) the development and utilization of [~~these~~] soil and water resources; and

5224 (ii) [~~their~~] soil and water resources' protection from the adverse effects of wind and
 5225 water erosion, sediment, and sediment related pollutants.

5226 (2) The Legislature finds that local production of food is essential for:

5227 (a) the security of the state's food supply; and

5228 (b) the self-sufficiency of the state's citizens.

5229 (3) The Legislature finds that sustainable agriculture is critical to:

5230 (a) the success of rural communities;

5231 (b) the historical culture of the state;

5232 (c) maintaining healthy farmland;

5233 (d) maintaining high water quality;

5234 (e) maintaining abundant wildlife;

5235 (f) high-quality recreation for citizens of the state; and

5236 (g) helping to stabilize the state economy.

5237 (4) The Legislature finds that livestock grazing on public lands is important for the
5238 proper management, maintenance, and health of public lands in the state.

5239 (5) The Legislature encourages each agricultural producer in the state to operate in a
5240 reasonable and responsible manner to maintain the integrity of land, soil, water, and air.

5241 (6) ~~[Fø] The department shall administer the Utah Agriculture Certificate of~~
5242 Environmental Stewardship Program, created in Section 4-18-107, to encourage each
5243 agricultural producer in this state to operate in a reasonable and responsible manner to maintain
5244 the integrity of the state's resources~~[, the state shall administer the Utah Agriculture Certificate~~
5245 ~~of Environmental Stewardship Program, created in Section 4-18-107].~~

5246 Section 203. Section 4-18-103 is amended to read:

5247 **4-18-103. Definitions.**

5248 As used in this chapter:

5249 (1) (a) "Agricultural discharge" means the release of agriculture water from the
5250 property of a farm, ranch, or feedlot that:

5251 (i) pollutes a surface body of water, including a stream, lake, pond, marshland,
5252 watercourse, waterway, river, ditch, or other water conveyance system;

5253 (ii) pollutes ground water; or

5254 (iii) constitutes a significant nuisance to urban land.

5255 (b) "Agricultural discharge" does not include:

5256 (i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated
5257 field onto land that is not part of a body of water; or

5258 (ii) a release of water from a farm, ranch, or feedlot into a normally dry water
5259 conveyance leading to an active body of water, if the release does not reach the water of a lake,
5260 pond, stream, marshland, river, or other active body of water.

5261 (2) "Agricultural operation" means a farm, ranch, or animal feeding operation.

5262 (3) "Agriculture water" means:

5263 (a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;

5264 (b) the return flow of water from irrigated agriculture; or

5265 (c) agricultural storm water runoff.

5266 (4) "Alternate" means a substitute for a district supervisor if the district supervisor

5267 cannot attend a meeting.

5268 (5) (a) "Animal feeding operation" means a facility where animals, other than aquatic
5269 animals, are stabled or confined and fed or maintained for a total of 45 days or more in any
5270 12-month period.

5271 (b) "Animal feeding operation" does not include an operation where animals are in
5272 areas such as pastures or rangeland that sustain crops or forage growth during the normal
5273 growing season.

5274 (6) "Best management practices" means practices, including management policies and
5275 the use of technology, used by each sector of agriculture in the production of food and fiber
5276 that are commonly accepted practices, or that are at least as effective as commonly accepted
5277 practices, and that:

5278 (a) protect the environment;

5279 (b) protect human health;

5280 (c) ensure the humane treatment of animals; and

5281 (d) promote the financial viability of agricultural production.

5282 (7) "Certified agricultural operation" means an agricultural operation that is certified
5283 under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance
5284 with Section [4-18-107](#).

5285 (8) "Certified conservation planner" means a planner of a state conservation district, or
5286 other qualified planner, that is approved by the commission to certify an agricultural operation
5287 under the Utah Agriculture Certificate of Environmental Stewardship Program, created in
5288 Section [4-18-107](#).

5289 (9) "Commission" means the Conservation Commission created in Section [4-18-104](#).

5290 (10) "Comprehensive nutrient management plan" or "nutrient management plan"
5291 means a plan to properly store, handle, and spread manure and other agricultural byproducts to:

5292 (a) protect the environment; and

5293 (b) provide nutrients for the production of crops.

5294 (11) "Coordinated resource management plan" means a plan of action created at a local
5295 level with broad participation of land owners, natural resource agencies, and interested
5296 stakeholders to protect or enhance the environment, human health, humane treatment of
5297 animals, and financial viability in the community.

5298 (12) "District" or "conservation district" has the same meaning as "conservation
5299 district" as defined in Section [17D-3-102](#).

5300 (13) "Pollution" means a harmful human-made or human-induced alteration to the
5301 water of the state, including an alteration to the chemical, physical, biological, or radiological
5302 integrity of water that harms the water of the state.

5303 (14) "State technical standards" means a collection of best management practices that
5304 will protect the environment in a reasonable and economical manner for each sector of
5305 agriculture as required by this chapter.

5306 (15) "Sustainable agriculture" means agriculture production and practices that promote:

5307 (a) the environmental responsibility of owners and operators of farms, ranches, and
5308 feedlots; and

5309 (b) the profitability of owners and operators of farms, ranches, and feedlots.

5310 Section 204. Section **4-18-104** is amended to read:

5311 **4-18-104. Conservation Commission created -- Composition -- Appointment --**
5312 **Terms -- Compensation -- Attorney general to provide legal assistance.**

5313 (1) There is created within the department the Conservation Commission to perform
5314 the functions specified in this chapter.

5315 (2) The Conservation Commission shall be [~~comprised of 16~~] composed of 15
5316 members, including:

5317 (a) the director of the Extension Service at Utah State University or the director's
5318 designee;

5319 (b) the president of the Utah Association of Conservation Districts or the president's
5320 designee;

5321 (c) the commissioner or the commissioner's designee;

5322 (d) the executive director of the Department of Natural Resources or the executive
5323 director's designee;

5324 (e) the executive director of the Department of Environmental Quality or the executive
5325 director's designee;

5326 (f) the chair [~~and the vice chair~~], or the chair's designee, of the State Grazing Advisory
5327 Board, created in Section [~~4-20-1.5~~] 4-20-103;

5328 (g) the president of the County Weed Supervisors Association;

5329 (h) seven district supervisors who provide district representation on the commission on
5330 a multicounty basis; and

5331 (i) the director of the School and Institutional Trust Lands Administration or the
5332 director's designee.

5333 (3) If a district supervisor is unable to attend a meeting, an alternate may serve in the
5334 place of the district supervisor for that meeting.

5335 (4) The members of the commission specified in Subsection (2)(h) shall:

5336 (a) be recommended by the commission to the governor; and

5337 (b) be appointed by the governor with the consent of the Senate.

5338 (5) (a) Except as required by Subsection (5)(b), as terms of current commission
5339 members expire, the governor shall appoint each new member or reappointed member to a
5340 four-year term.

5341 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
5342 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
5343 commission members are staggered so that approximately half of the commission is appointed
5344 every two years.

5345 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
5346 appointed for the unexpired term.

5347 (7) The commissioner is chair of the commission.

5348 (8) Attendance of a majority of the commission members at a meeting constitutes a
5349 quorum.

5350 (9) A member may not receive compensation or benefits for the member's service, but
5351 may receive per diem and travel expenses in accordance with:

5352 (a) Section [63A-3-106](#);

5353 (b) Section [63A-3-107](#); and

5354 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
5355 [63A-3-107](#).

5356 (10) The commission shall keep a record of ~~[its]~~ the commission's actions.

5357 (11) The attorney general shall provide legal services to the commission upon request.
5358 Section 205. Section **4-18-105** is amended to read:

5359 **4-18-105. Conservation Commission -- Functions and duties.**

- 5360 (1) The commission shall:
- 5361 (a) facilitate the development and implementation of the strategies and programs
- 5362 necessary to:
- 5363 (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state;
- 5364 and
- 5365 (ii) promote the protection, integrity, and restoration of land for agricultural and other
- 5366 beneficial purposes;
- 5367 (b) disseminate information regarding districts' activities and programs;
- 5368 (c) supervise the formation, reorganization, or dissolution of districts according to the
- 5369 requirements of Title 17D, Chapter 3, Conservation District Act;
- 5370 (d) prescribe uniform accounting and recordkeeping procedures for districts and
- 5371 require each district to submit annually an audit of ~~[its]~~ the district's funds to the commission;
- 5372 (e) approve and make loans for agricultural purposes, through the advisory board
- 5373 described in Section [4-18-106](#), from the Agriculture Resource Development Fund, for:
- 5374 (i) rangeland improvement and management projects;
- 5375 (ii) watershed protection and flood prevention projects;
- 5376 (iii) agricultural cropland soil and water conservation projects;
- 5377 (iv) programs designed to promote energy efficient farming practices; and
- 5378 (v) programs or improvements for agriculture product storage or protections of a crop
- 5379 or animal resource;
- 5380 (f) administer federal or state funds, including loan funds under this chapter, in
- 5381 accordance with applicable federal or state guidelines and make loans or grants from those
- 5382 funds to land occupiers for:
- 5383 (i) conservation of soil or water resources;
- 5384 (ii) maintenance of rangeland improvement projects;
- 5385 (iii) development and implementation of coordinated resource management plans, as
- 5386 defined in Section [4-18-103](#), with conservation districts, as defined in Section [17D-3-102](#); and
- 5387 (iv) control or eradication of noxious weeds and invasive plant species:
- 5388 (A) in cooperation and coordination with local weed boards; and
- 5389 (B) in accordance with Section ~~[4-2-8.7]~~ [4-17-114](#);
- 5390 (g) seek to coordinate soil and water protection, conservation, and development

5391 activities and programs of state agencies, local governmental units, other states, special interest
5392 groups, and federal agencies;

5393 (h) plan watershed and flood control projects in cooperation with appropriate local,
5394 state, and federal authorities, and coordinate flood control projects in the state;

5395 (i) assist other state agencies with conservation standards for agriculture when
5396 requested; and

5397 (j) when assigned by the governor, when required by contract with the Department of
5398 Environmental Quality, or when required by contract with the United States Environmental
5399 Protection Agency:

5400 (i) develop programs for the prevention, control, or abatement of new or existing
5401 pollution to the soil, water, or air of the state;

5402 (ii) advise, consult, and cooperate with affected parties to further the purpose of this
5403 chapter;

5404 (iii) conduct studies, investigations, research, and demonstrations relating to
5405 agricultural pollution issues;

5406 (iv) give reasonable consideration in the exercise of its powers and duties to the
5407 economic impact on sustainable agriculture;

5408 (v) meet the requirements of federal law related to water and air pollution in the
5409 exercise of [its] the commission's powers and duties; and

5410 (vi) establish administrative penalties relating to agricultural discharges as defined in
5411 Section [4-18-103](#) that are proportional to the seriousness of the resulting environmental harm.

5412 (2) The commission may:

5413 (a) employ, with the approval of the department, an administrator and necessary
5414 technical experts and employees;

5415 (b) execute contracts or other instruments necessary to exercise its powers;

5416 (c) take necessary action to promote and enforce the purpose and findings of Section
5417 [4-18-102](#);

5418 (d) sue and be sued; and

5419 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
5420 Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and
5421 Subsections (2)(b) and (c).

5422 ~~[(3) If, under Subsection (2)(a), the commission employs an individual who was~~
5423 ~~formerly an employee of a conservation district or the Utah Association of Conservation~~
5424 ~~Districts, the Department of Human Resource Management shall:]~~

5425 ~~[(a) recognize the employee's employment service credit from the conservation district~~
5426 ~~or association in determining leave accrual in the employee's new position within the state;~~
5427 ~~and]~~

5428 ~~[(b) set the initial wage rate for the employee at the level that the employee was~~
5429 ~~receiving as an employee of the conservation district or association.]~~

5430 ~~[(4) An employee described in Subsection (3) is exempt from the career service~~
5431 ~~provisions of Title 67, Chapter 19, Utah State Personnel Management Act, and shall be~~
5432 ~~designated under schedule codes and parameters established by the Department of Human~~
5433 ~~Resource Management under Subsection 67-19-15(1)(p) until the commission, under~~
5434 ~~parameters established by the Department of Human Resource Management, designates the~~
5435 ~~employee under a different schedule recognized under Section 67-19-15:]~~

5436 ~~[(5) (a) For purposes of the report required by Subsection (5)(b), the commissioner~~
5437 ~~shall study the organizational structure of the employees described in Subsection (3).]~~

5438 ~~[(b) The commissioner shall report to the Natural Resources, Agriculture, and~~
5439 ~~Environmental Quality Appropriations Subcommittee by no later than that subcommittee's~~
5440 ~~November 2015 interim meeting regarding the study required by Subsection (5)(a).]~~

5441 Section 206. Section **4-18-106** is amended to read:

5442 **4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund**
5443 **money -- Authority board.**

5444 (1) There is created a revolving loan fund known as the Agriculture Resource
5445 Development Fund.

5446 (2) The Agriculture Resource Development Fund shall consist of:

5447 (a) money appropriated to it by the Legislature;

5448 (b) sales and use tax receipts transferred to the fund in accordance with Section
5449 [59-12-103](#);

5450 (c) money received for the repayment of loans made from the fund;

5451 (d) money made available to the state for agriculture resource development from any
5452 source; and

5453 (e) interest earned on the fund.
5454 (3) The commission shall make loans from the Agriculture Resource Development
5455 Fund as provided by Subsections 4-18-105(1)(e)(i) through (iv).

5456 (4) The commission may appoint an advisory board that shall:
5457 (a) oversee the award process for loans, as described in this section;
5458 (b) make recommendations to the commission regarding loans; and
5459 (c) recommend [the] policies and procedures for the Agriculture Resource
5460 Development Fund[;] that are consistent with statute.

5461 Section 207. Section 4-18-107 is amended to read:

5462 **4-18-107. Utah Agriculture Certificate of Environmental Stewardship Program.**

5463 (1) There is created the Utah Agriculture Certificate of Environmental Stewardship
5464 Program.

5465 (2) The commission, with the assistance of the department and with the advice of the
5466 Water Quality Board[;] created in Section 19-1-106, shall make rules in accordance with Title
5467 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:

- 5468 (a) (i) best management practices;
- 5469 (ii) state technical standards; and
- 5470 (iii) guidelines for nutrient management plans;
- 5471 (b) requirements for qualification under the Utah Agriculture Certificate of
5472 Environmental Stewardship Program that:
 - 5473 (i) are consistent with sustainable agriculture;
 - 5474 (ii) help prevent harm to the environment, including prevention of an agricultural
5475 discharge; and
 - 5476 (iii) encourage agricultural operations in the state to follow:
 - 5477 (A) best management practices; and
 - 5478 (B) nutrient management plans that meet the state technical standards appropriate for
5479 each type of agricultural operation;
 - 5480 (c) the procedure for qualification under the Utah Agriculture Certificate of
5481 Environmental Stewardship Program;
 - 5482 (d) the requirements and certification process for an individual to become a certified
5483 conservation planner; and

5484 (e) standards and procedures for administering the Utah Agriculture Certificate of
5485 Environmental Stewardship Program, including:

- 5486 (i) renewal of a certification under Subsection (4)(b);
- 5487 (ii) investigation and revocation of a certification under Subsection (6); and
- 5488 (iii) revocation of a certification under Subsection (7)(b).

5489 (3) An owner or operator of an agricultural operation may apply to certify the
5490 agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship
5491 Program in accordance with this section.

5492 (4) (a) Except as provided in Subsection (6) or (7), a certified agricultural operation
5493 remains certified for a period of five years after the day on which the agricultural operation
5494 becomes certified.

5495 (b) A certified agricultural operation may, in accordance with commission rule, renew
5496 the certification for an additional five years to keep the certification for a total period of 10
5497 years after the day on which the agricultural operation becomes certified.

5498 (5) Subject to review by the commissioner or the commissioner's designee, a certified
5499 conservation planner shall certify each qualifying agricultural operation that applies to the Utah
5500 Agriculture Certificate of Environmental Stewardship Program.

5501 (6) (a) Upon request of the Department of Environmental Quality or upon receipt by
5502 the department of a citizen environmental complaint, the department shall, with the assistance
5503 of certified conservation planners as necessary, investigate a certified agricultural operation to
5504 determine whether the agricultural operation has committed a significant violation of the
5505 requirements of the Utah Agriculture Certificate of Environmental Stewardship Program.

5506 (b) If, after completing an investigation described in Subsection (6)(a), the department
5507 determines that a certified agricultural operation has committed a significant violation of the
5508 requirements for the Utah Agriculture Certificate of Environmental Stewardship Program, the
5509 department shall report the violation to the commission.

5510 (c) Upon receipt of a report described in Subsection (6)(b), the commission shall
5511 review the report and:

- 5512 (i) revoke the agricultural operation's certification; or
- 5513 (ii) set terms and conditions for the agricultural operation to maintain its certification.

5514 (7) (a) If, for a certification renewal under Subsection (4)(b), or an investigation under

5515 Subsection (6)(a), the department requests access to a certified agricultural operation, the
5516 certified agricultural operation shall, at a reasonable time, allow access for the department to:

- 5517 (i) inspect the agricultural operation; or
5518 (ii) review the records of the agricultural operation.

5519 (b) If a certified agricultural operation denies the department access as described in
5520 Subsection (7)(a), the commission may revoke the agricultural operation's certification.

5521 (8) If the commission changes a requirement of the Utah Agriculture Certificate of
5522 Environmental Stewardship Program after an agricultural operation is certified in accordance
5523 with former requirements, during the certification and renewal periods described in
5524 Subsections (4)(a) and (b) the agricultural operation may choose whether to abide by a new
5525 requirement, but the agricultural operation is not subject to the new requirement until the
5526 agricultural operation reapplies for certification.

5527 (9) Nothing in this section exempts an agricultural discharge made by a certified
5528 agricultural operation from the provisions of Subsection 19-5-105.5(3)(b).

5529 (10) (a) Except as provided in Subsections 19-5-105.6(2) and (3), a certified agriculture
5530 operation may not be required to implement additional projects or best management practices
5531 to address nonpoint source discharges.

5532 (b) The Division of Water Quality shall consider an agriculture operation's compliance
5533 with certification under an approved agriculture environmental stewardship program a
5534 mitigating factor for penalty purposes, as provided in Section 19-5-105.6.

5535 Section 208. Section 4-18-108 is amended to read:

5536 **4-18-108. Grants for environmental improvement projects -- Criteria for award**
5537 **-- Duties of commission.**

5538 (1) (a) Subject to appropriation, the commission, as described in Subsection (4), may
5539 make a grant to an owner or operator of a farm or ranch to pay for the costs of plans or projects
5540 to improve manure management, control surface water runoff, or address other environmental
5541 issues on the farm or ranch operation, including the costs of preparing or implementing a
5542 nutrient management plan.

5543 (b) The commission shall make a grant described in Subsection (1)(a) from funds
5544 appropriated by the Legislature for that purpose.

5545 (2) (a) In awarding a grant, the commission shall consider the following criteria:

5546 (i) the ability of the grantee to pay for the costs of plans or projects to improve manure
5547 management or control surface water runoff;

5548 (ii) the availability of:

5549 (A) matching funds provided by the grantee or another source; or

5550 (B) material, labor, or other items of value provided in lieu of money by the grantee or
5551 another source; and

5552 (iii) the benefits that accrue to the general public by the awarding of a grant.

5553 (b) The commission may establish by rule additional criteria for the awarding of a
5554 grant.

5555 (3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
5556 Administrative Rulemaking Act, to implement this section.

5557 (4) The commission:

5558 (a) shall be responsible for awarding a grant or loan for water quality or other
5559 environmental issues; and

5560 (b) may appoint an advisory board to:

5561 (i) assist with the award process; and

5562 (ii) make recommendations to the commission regarding awards.

5563 Section 209. Section **4-18-201** is enacted to read:

5564 **Part 2. Salinity Offset Fund**

5565 **4-18-201. Title -- Definitions.**

5566 (1) This part is known as "Salinity Offset Fund."

5567 (2) As used in this part, "Colorado River Salinity Offset Program" means a program,
5568 administered by the Division of Water Quality, allowing oil, gas, or mining companies and
5569 other entities to provide funds to finance salinity reduction projects in the Colorado River
5570 Basin by purchasing salinity credits as offsets against discharges made by the company under
5571 permits issued by the Division of Water Quality.

5572 Section 210. Section **4-18-202**, which is renumbered from Section 4-2-8.5 is
5573 renumbered and amended to read:

5574 **[4-2-8.5]. 4-18-202. Salinity Offset Fund.**

5575 ~~[(1) As used in this section, "Colorado River Salinity Offset Program" means a~~
5576 ~~program, administered by the Division of Water Quality, allowing oil, gas, or mining~~

5577 companies and other entities to provide funds to finance salinity reduction projects in the
5578 Colorado River Basin by purchasing salinity credits as offsets against discharges made by the
5579 company under permits issued by the Division of Water Quality.]

5580 ~~[(2)]~~ (1) (a) There is created an expendable special revenue fund known as the "Salinity
5581 Offset Fund."

5582 (b) The fund shall consist of:

5583 (i) money received from the Division of Water Quality that has been collected as part
5584 of the Colorado River Salinity Offset Program;

5585 (ii) grants from local governments, the state, or the federal government;

5586 (iii) grants from private entities; and

5587 (iv) interest on fund money.

5588 ~~[(3)]~~ (2) (a) The department shall:

5589 (i) subject to the rules established under Subsection ~~[(3)]~~ (2)(a)(ii), distribute fund
5590 money to farmers, ranchers, mutual irrigation companies, and other entities in the state to assist
5591 in financing irrigation, rangeland, and watershed improvement projects that will, in accordance
5592 with the Colorado River Salinity Offset Program, reduce salinity in the Colorado River; and

5593 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5594 make rules establishing:

5595 (A) a project funding application process;

5596 (B) project funding requirements;

5597 (C) project approval criteria; and

5598 (D) standards for evaluating the effectiveness of funded projects in reducing salinity in
5599 the Colorado River.

5600 (b) The department may require entities seeking fund money to provide matching
5601 funds.

5602 (c) The department shall submit to the Division of Water Quality proposed funding
5603 projects for the division's review and approval.

5604 (d) The Division of Water Quality and the department shall establish a committee to
5605 review and approve projects, as funding allows.

5606 ~~[(4)]~~ (3) (a) Except as provided in Subsection ~~[(4)]~~ (3)(b), the department may use fund
5607 money for the administration of the fund, but this amount may not exceed 10% of the receipts

5608 to the fund.

5609 (b) The department may not use earned interest for administration of the fund.

5610 Section 211. Section **4-19-101** is enacted to read:

5611 **CHAPTER 19. RURAL REHABILITATION**

5612 **4-19-101. Title.**

5613 This chapter is known as "Rural Rehabilitation."

5614 Section 212. Section **4-19-102**, which is renumbered from Section 4-19-1 is
5615 renumbered and amended to read:

5616 **~~[4-19-1].~~ 4-19-102. Department responsible for conduct and administration**
5617 **of rural rehabilitation program.**

5618 The department shall conduct and administer the rural rehabilitation program within the
5619 state in accordance with the agreement entered into in January 1975, between the United States
5620 of America through its Farm Home Administration and the state through its commissioner.

5621 Section 213. Section **4-19-103**, which is renumbered from Section 4-19-2 is
5622 renumbered and amended to read:

5623 **~~[4-19-2].~~ 4-19-103. Department authorized to approve and make grants and**
5624 **loans, acquire property, and lease or operate property.**

5625 The department, in conjunction with the administration of the rural rehabilitation
5626 program, may:

5627 (1) approve and make a loan to a farm or agricultural cooperative association regulated
5628 under Title 3, Uniform Agricultural Cooperative Association Act, subject to Section ~~[4-19-3]~~
5629 4-19-104, including:

5630 (a) taking security for the loan through a mortgage, trust deed, pledge, or other security
5631 device;

5632 (b) purchasing a promissory note, real estate contract, mortgage, trust deed, or other
5633 instrument or evidence of indebtedness; and

5634 (c) collecting, compromising, canceling, or adjusting a claim or obligation arising out
5635 of the administration of the rural rehabilitation program;

5636 (2) purchase or otherwise obtain property in which the department has acquired an
5637 interest on account of a mortgage, trust deed, lien, pledge, assignment, judgment, or other
5638 means at any execution or foreclosure sale;

5639 (3) operate or lease, if necessary to protect its investment, property in which it has an
5640 interest, or sell or otherwise dispose of the property; and

5641 (4) approve and make an education loan or an education grant to an individual for the
5642 purpose of attending a vocational school, college, or university to obtain additional education,
5643 qualifications, or skills.

5644 Section 214. Section ~~4-19-104~~, which is renumbered from Section 4-19-3 is
5645 renumbered and amended to read:

5646 ~~[4-19-3]~~. **4-19-104. Loans -- Not to exceed period of 10 years -- Agricultural**
5647 **Advisory Board to approve loans and renewals, methods of payments, and interest rates**
5648 **-- Guidelines in fixing interest rates declared.**

5649 (1) The department may not make a loan authorized under this chapter for a period to
5650 exceed 10 years, but the loan is renewable.

5651 (2) ~~[The]~~ Except as provided in Subsection (5), the Agricultural Advisory Board
5652 created in Section [4-2-108](#) shall approve:

- 5653 (a) all loans and renewals;
5654 (b) the methods of repayment; and
5655 (c) the interest rates charged.

5656 (3) In fixing interest rates, the Agricultural Advisory Board shall consider:

- 5657 (a) the current applicable interest rate or rates being charged by the USDA Farm
5658 Service Agency on similar loans;
5659 (b) the current prime rate charged by leading lending institutions; and
5660 (c) any other pertinent economic data.

5661 (4) The interest rates established shall be compatible with guidelines stated in this
5662 section.

5663 (5) The Agricultural Advisory Board may create a subcommittee from the board's
5664 membership to approve loans under this section.

5665 Section 215. Section ~~4-19-105~~, which is renumbered from Section 4-19-4 is
5666 renumbered and amended to read:

5667 ~~[4-19-4]~~. **4-19-105. Utah Rural Rehabilitation Fund.**

5668 (1) The department shall deposit all income generated from the administration of the
5669 rural rehabilitation program in a separate fund known as the "Utah Rural Rehabilitation Fund."

5670 (2) The state treasurer shall maintain the Utah Rural Rehabilitation Fund and record all
5671 debits and credits made to the fund by the department.

5672 Section 216. Section ~~4-20-101~~, which is renumbered from Section 4-20-1 is
5673 renumbered and amended to read:

5674 **CHAPTER 20. RANGELAND IMPROVEMENT ACT**

5675 ~~[4-20-1]~~. **4-20-101. Title.**

5676 ~~[(1)]~~ This chapter is known as the "Rangeland Improvement Act."

5677 ~~[(2) As used in this chapter:]~~

5678 ~~[(a) "Cooperative weed management association" means a multigovernmental~~
5679 ~~association cooperating together to control noxious weeds in a geographic area that includes~~
5680 ~~some portion of Utah.]~~

5681 ~~[(b) "Fees" mean the revenue collected by the United States Secretary of Interior from~~
5682 ~~assessments on livestock using public lands.]~~

5683 ~~[(c) "Grazing district" means an administrative unit of land:]~~

5684 ~~[(i) designated by the commissioner as being valuable for grazing and for raising~~
5685 ~~forage crops; and]~~

5686 ~~[(ii) which consists of any combination of the following:]~~

5687 ~~[(A) public land;]~~

5688 ~~[(B) private land;]~~

5689 ~~[(C) state land; and]~~

5690 ~~[(D) school and institutional trust land as defined in Section ~~53C-1-103~~.]~~

5691 ~~[(d) "Public lands" mean vacant, unappropriated, reserved, and unreserved federal~~
5692 ~~lands.]~~

5693 ~~[(e) "Regional board" means a regional grazing advisory board whose members are~~
5694 ~~appointed under Section ~~4-20-1.6~~.]~~

5695 ~~[(f) "Restricted account" means the Rangeland Improvement Account created in Section~~
5696 ~~~~4-20-2~~.]~~

5697 ~~[(g) "Sales" or "leases" mean the sale or lease, respectively, of isolated or disconnected~~
5698 ~~tracts of public lands by the United States Secretary of Interior.]~~

5699 ~~[(h) "State board" means the State Grazing Advisory Board created under Section~~
5700 ~~~~4-20-1.5~~.]~~

5701 Section 217. Section **4-20-102** is enacted to read:

5702 **4-20-102. Definitions.**

5703 As used in this chapter:

5704 (1) "Cooperative weed management association" means a multigovernmental
5705 association cooperating to control noxious weeds in a geographic area that includes some
5706 portion of Utah.

5707 (2) "Fees" means the revenue collected by the United States secretary of interior from
5708 assessments on livestock using public lands.

5709 (3) "Grazing district" means an administrative unit of land:

5710 (a) designated by the commissioner as valuable for grazing and for raising forage
5711 crops; and

5712 (b) that consists of any combination of the following:

5713 (i) public lands;

5714 (ii) private land;

5715 (iii) state land; and

5716 (iv) school and institutional trust land as defined in Section [53C-1-103](#).

5717 (4) "Public lands" mean vacant, unappropriated, reserved, and unreserved federal
5718 lands.

5719 (5) "Regional board" means a regional grazing advisory board with members appointed
5720 under Section [4-20-104](#).

5721 (6) "Restricted account" means the Rangeland Improvement Account created in
5722 Section [4-20-105](#).

5723 (7) "Sales" or "leases" means the sale or lease, respectively, of isolated or disconnected
5724 tracts of public lands by the United States secretary of interior.

5725 (8) "State board" means the State Grazing Advisory Board created under Section
5726 [4-20-103](#).

5727 Section 218. Section **4-20-103**, which is renumbered from Section 4-20-1.5 is
5728 renumbered and amended to read:

5729 ~~[4-20-1.5]~~. **4-20-103. State Grazing Advisory Board -- Duties.**

5730 (1) (a) There is created within the department the State Grazing Advisory Board.

5731 (b) The commissioner shall appoint the following members:

- 5732 (i) one member from each regional board;
- 5733 (ii) one member from the Conservation Commission, created in Section [4-18-104](#);
- 5734 (iii) one representative of the Department of Natural Resources;
- 5735 (iv) two livestock producers at-large; and
- 5736 (v) one representative of the oil, gas, or mining industry.
- 5737 (2) The term of office for a state board member is four years.
- 5738 (3) Members of the state board shall elect a chair, who shall serve for two years.
- 5739 (4) A member may not receive compensation or benefits for the member's service but
- 5740 may receive per diem and travel expenses in accordance with:
- 5741 (a) Section [63A-3-106](#);
- 5742 (b) Section [63A-3-107](#); and
- 5743 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
- 5744 [63A-3-107](#).
- 5745 (5) The state board shall:
- 5746 (a) receive:
- 5747 (i) advice and recommendations from a regional board concerning:
- 5748 (A) management plans for public lands, state lands, and school and institutional trust
- 5749 lands as defined in Section [53C-1-103](#), within the regional board's region; and
- 5750 (B) any issue that impacts grazing on private lands, public lands, state lands, or school
- 5751 and institutional trust lands as defined in Section [53C-1-103](#), in its region; and
- 5752 (ii) requests for restricted account money from the entities described in Subsections
- 5753 (5)(c)(i) through (iv);
- 5754 (b) recommend state policy positions and cooperative agency participation in federal
- 5755 and state land management plans to the department and to the Public Lands Policy
- 5756 Coordinating Office, created under Section [63J-4-602](#); and
- 5757 (c) advise the department on the requests and recommendations of:
- 5758 (i) regional boards;
- 5759 (ii) county weed control boards, created in Section [~~4-17-4~~] [4-17-105](#);
- 5760 (iii) cooperative weed management associations; and
- 5761 (iv) conservation districts created under the authority of Title 17D, Chapter 3,
- 5762 Conservation District Act.

5763 Section 219. Section **4-20-104**, which is renumbered from Section 4-20-1.6 is
5764 renumbered and amended to read:

5765 **[4-20-1.6]. 4-20-104. Regional grazing advisory boards -- Duties.**

5766 (1) The commissioner shall appoint members to a regional board for each grazing
5767 district from nominations submitted by:

5768 (a) the Utah Cattlemen's Association;

5769 (b) the Utah ~~[Woolgrower's]~~ Woolgrowers Association;

5770 (c) the Utah Farm Bureau Federation; and

5771 (d) a conservation district, if the conservation district's boundaries include some
5772 portion of the grazing district.

5773 (2) Regional boards:

5774 (a) shall provide advice and recommendations to the state board; and

5775 (b) may receive money from the Rangeland Improvement Account created in Section
5776 [4-20-2] 4-20-105.

5777 (3) If a regional board receives money as authorized by Subsection (2)(b), the regional
5778 board shall elect a treasurer to expend the money:

5779 (a) as directed by the regional board; and

5780 (b) in accordance with Section [4-20-3] 4-20-106.

5781 Section 220. Section **4-20-105**, which is renumbered from Section 4-20-2 is
5782 renumbered and amended to read:

5783 **[4-20-2]. 4-20-105. Rangeland Improvement Account -- Administered by**
5784 **department.**

5785 (1) (a) There is created a restricted account within the General Fund known as the
5786 "Rangeland Improvement Account."

5787 (b) The restricted account shall consist of:

5788 (i) money received by the state from the United States Secretary of Interior under the
5789 Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and fees;

5790 (ii) grants or appropriations from the state or federal government; and

5791 (iii) grants from private foundations.

5792 (c) Interest earned on the restricted account shall be deposited into the General Fund.

5793 (2) The department shall:

- 5794 (a) administer the restricted account;
- 5795 (b) obtain from the United States Department of Interior the receipts collected from:
- 5796 (i) fees in each grazing district; and
- 5797 (ii) the receipts collected from the sale or lease of public lands; and
- 5798 (c) distribute restricted account money in accordance with Section [~~4-20-3~~] [4-20-106](#).
- 5799 Section 221. Section **4-20-106**, which is renumbered from Section 4-20-3 is

5800 renumbered and amended to read:

5801 ~~[4-20-3]~~. **4-20-106. Rangeland Improvement Account distribution.**

5802 (1) The department shall distribute restricted account money as provided in this

5803 section.

5804 (a) The department shall:

5805 (i) distribute pro rata to each school district the money received by the state under

5806 Subsection [~~4-20-2~~] [4-20-105](#)(1)(b)(i) from the sale or lease of public lands based upon the

5807 amount of revenue generated from the sale or lease of public lands within the district; and

5808 (ii) ensure that all money generated from the sale or lease of public lands within a

5809 school district is credited and deposited to the general school fund of that school district.

5810 (b) (i) After the commissioner approves a request from a regional board, the

5811 department shall distribute pro rata to each regional board money received by the state under

5812 Subsection [~~4-20-2~~] [4-20-105](#)(1)(b)(i) from fees based upon the amount of revenue generated

5813 from the imposition of fees within that grazing district.

5814 (ii) The regional board shall expend money received in accordance with Subsection (2).

5815 (c) (i) The department shall distribute or expend money received by the state under

5816 Subsections [~~4-20-2~~] [4-20-105](#)(1)(b)(ii) and (iii) for the purposes outlined in Subsection (2).

5817 (ii) The department may require entities seeking funding from sources outlined in

5818 Subsections [~~4-20-2~~] [4-20-105](#)(1)(b)(ii) and (iii) to provide matching funds.

5819 (2) The department shall ensure that restricted account distributions or expenditures

5820 under Subsections (1)(b) and (c) are used for:

5821 (a) range improvement and maintenance;

5822 (b) the control of predatory and depredate animals;

5823 (c) the control, management, or extermination of invading species, range damaging

5824 organisms, and poisonous or noxious weeds;

5825 (d) the purchase or lease of lands or a conservation easement for the benefit of a
5826 grazing district;

5827 (e) watershed protection, development, distribution, and improvement;

5828 (f) the general welfare of livestock grazing within a grazing district; and

5829 (g) subject to Subsection (3), costs to monitor rangeland improvement projects.

5830 (3) Annual account distributions or expenditures for the monitoring costs described in
5831 Subsection (2)(g) may not exceed 10% of the annual receipts of the fund.

5832 Section 222. Section **4-20-107**, which is renumbered from Section 4-20-8 is
5833 renumbered and amended to read:

5834 **~~[4-20-8]~~. 4-20-107. Audit of grazing districts -- State auditor to coordinate**
5835 **with Department of Interior in conduct of audit.**

5836 The state auditor is authorized to coordinate with the Department of Interior in auditing
5837 the books of the several advisory boards.

5838 Section 223. Section **4-20-108**, which is renumbered from Section 4-20-9 is
5839 renumbered and amended to read:

5840 **~~[4-20-9]~~. 4-20-108. Commissioner to supervise distribution of undistributed**
5841 **funds if United States alters or discontinues funding leaving funds or resources available.**

5842 If the United States alters or discontinues funding under the Taylor Grazing Act, 43
5843 U.S.C. Sec. 315 et seq., or the operation of advisory boards, leaving funds or other resources
5844 undistributed or otherwise without means for continuation, the commissioner shall supervise
5845 and control the distribution of such undistributed funds or other resources.

5846 Section 224. Section **4-20-109**, which is renumbered from Section 4-20-10 is
5847 renumbered and amended to read:

5848 **~~[4-20-10]~~. 4-20-109. Promotion of multiple use of rangeland resources.**

5849 (1) The department shall work cooperatively to promote efficient multiple-use
5850 management of the rangeland resources of the public lands administered by the federal Bureau
5851 of Land Management within the state to benefit the overall public interest.

5852 (2) The department may serve as an independent resource for mediating disputes
5853 concerning permit issues within the scope of Subsection (1).

5854 Section 225. Section **4-22-101** is enacted to read:

5855 **CHAPTER 22. DAIRY PROMOTION**

5856 **4-22-101. Title.**

5857 This chapter is known as "Dairy Promotion."

5858 Section 226. Section **4-22-102**, which is renumbered from Section 4-22-1 is
5859 renumbered and amended to read:

5860 ~~[4-22-1]~~. **4-22-102. Definitions.**

5861 As used in this chapter:

5862 (1) "Commission" means the Utah Dairy Commission.

5863 (2) "Dealer" means any person who buys and processes raw milk or milk fat, or who
5864 acts as agent in the sale or purchase of raw milk or milk fat, or who acts as a broker or factor
5865 with respect to raw milk or milk fat or any product derived from either.

5866 (3) "Producer" means a person who produces milk or milk fat from cows and who sells
5867 it for human or animal consumption, or for medicinal or industrial uses.

5868 (4) "Producer-handler" means any producer who processes raw milk or milk fat.

5869 Section 227. Section **4-22-103**, which is renumbered from Section 4-22-2 is
5870 renumbered and amended to read:

5871 ~~[4-22-2]~~. **4-22-103. Utah Dairy Commission created -- Composition -- Elected**
5872 **members -- Terms of elected members -- Qualifications for election.**

5873 (1) There is created an independent state agency known as the Utah Dairy Commission.

5874 (2) The Utah Dairy Commission consists of 13 members as follows:

5875 (a) the commissioner of agriculture and food, or the commissioner's representative;

5876 (b) the dean of the College of Agriculture at Utah State University, or the dean's
5877 representative;

5878 (c) the president of the Utah Dairy Women's Association or the president of the Utah
5879 Dairy Women's Association's representative;

5880 (d) a member from District 1, northern Cache County, which member shall have a
5881 Cornish, Lewiston, Richmond/Cove, or Trenton mailing address;

5882 (e) a member from District 2, central Cache County and Rich County, which member
5883 shall have a Newton, Clarkston, Amalga, Smithfield, Benson, Hyde Park, Mendon, or
5884 Petersboro mailing address;

5885 (f) a member from District 3, southern Cache County, which member shall have a
5886 Logan, Providence, Nibley, Hyrum, Paradise, Wellsville, College Ward, Young Ward, or

5887 Millville mailing address;

5888 (g) a member from District 4, Box Elder County;

5889 (h) a member from District 5, Weber and Morgan Counties;

5890 (i) a member from District 6, Salt Lake, Davis, Utah, and Tooele Counties;

5891 (j) a member from District 7, Wasatch, Summit, Duchesne, Uintah, and Daggett
5892 Counties;

5893 (k) a member from District 8, Millard, Beaver, Iron, and Washington Counties;

5894 (l) a member from District 9, Sanpete, Carbon, Emery, Grand, Juab, and San Juan
5895 Counties; and

5896 (m) a member from District 10, Piute, Wayne, Kane, Garfield, and Sevier Counties.

5897 (3) The ex officio members listed in Subsections (2)(a) and (b) shall serve without a
5898 vote.

5899 (4) The members listed in Subsections (2)(d) through (m) shall be elected to four-year
5900 terms of office as provided in Section ~~[4-22-6]~~ [4-22-105](#).

5901 (5) Members shall enter office on July 1 of the year in which they are elected.

5902 (6) The commission, by two-thirds vote, may alter the boundaries comprising the
5903 districts established in this section to maintain equitable representation of active milk
5904 producers on the commission.

5905 (7) Each member shall be:

5906 (a) a citizen of the United States;

5907 (b) 26 years of age or older;

5908 (c) an active milk producer with five consecutive years experience in milk production
5909 within this state immediately preceding election; and

5910 (d) a resident of Utah and the district represented.

5911 Section 228. Section **4-22-104**, which is renumbered from Section 4-22-3 is
5912 renumbered and amended to read:

5913 ~~[4-22-3]~~. **4-22-104. Commission -- Organization -- Quorum to transact**
5914 **business -- Vacancies -- Ineligibility to serve -- Compensation.**

5915 (1) The members of the commission shall elect a chair, vice chair, and secretary from
5916 ~~[among their number]~~ the commission.

5917 (2) Attendance of a simple majority of the commission members at a called meeting

5918 shall constitute a quorum for the transaction of official business.

5919 (3) The commission shall meet:

5920 (a) at the time and place designated by the chair; and

5921 (b) no less often than once every three months.

5922 (4) Vacancies [~~which~~] that occur on the commission for any reason shall be filled for
5923 the unexpired term of the vacated member by appointment of a majority of the remaining
5924 members.

5925 (5) If a member moves from the district that [~~he~~] the member represents or ceases to
5926 act as a producer during [~~his~~] the member's term of office, [~~he~~] the member shall resign from
5927 the commission within 30 days after moving from the district or ceasing production.

5928 (6) A member may not receive compensation or benefits for the member's service, but
5929 may receive per diem and travel expenses in accordance with:

5930 (a) Section 63A-3-106;

5931 (b) Section 63A-3-107; and

5932 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5933 63A-3-107.

5934 Section 229. Section 4-22-105, which is renumbered from Section 4-22-6 is
5935 renumbered and amended to read:

5936 [~~4-22-6~~]. **4-22-105. Commission to conduct elections -- Nomination of**
5937 **candidates -- Expenses of election paid by commission.**

5938 (1) (a) The commissioner shall administer all commission elections.

5939 (b) The commissioner shall mail a ballot to each producer within the district in which
5940 an election is to be held by May 15 of each election year.

5941 (c) The candidate who receives the highest number of votes cast in the candidate's
5942 district shall be elected.

5943 (d) The commissioner shall determine all questions of eligibility.

5944 (e) A ballot shall be postmarked by May 31 of an election year.

5945 (f) (i) All ballots received by the commissioner shall be counted and tallied by June 15.

5946 (ii) A member of the commission whose name appears on a ballot may not participate
5947 in counting or tallying the ballots.

5948 (2) Candidates for election to the commission shall be nominated, not later than April

5949 15, by a petition signed by [~~five~~] two or more producers who are residents of the district in
5950 which the election is to be held.

5951 (3) The names of all nominees shall be submitted to the commissioner on or before
5952 May 1 of each election year [~~in which an election is held~~].

5953 (4) All election expenses incurred by the commissioner shall be paid by the
5954 commission.

5955 Section 230. Section ~~4-22-106~~, which is renumbered from Section 4-22-4 is
5956 renumbered and amended to read:

5957 [~~4-22-4~~]. **4-22-106. Commission powers, duties, and functions.**

5958 The commission has and shall exercise the following functions, powers, and duties:

5959 (1) to employ and fix the salary of a full-time administrator, not a member of the
5960 commission, to administer the policies adopted, and perform the duties assigned, by the
5961 commission;

5962 (2) to conduct a campaign of research, nutritional education, and publicity, showing the
5963 value of milk, cream, and dairy products;

5964 (3) to encourage local, national, and international use of Utah dairy products and
5965 by-products, through advertising or otherwise;

5966 (4) to investigate and participate in studies of problems peculiar to producers in Utah
5967 and to take all actions consistent with this chapter to promote, protect, and stabilize the state
5968 dairy industry;

5969 (5) to sue and be sued, prosecute actions in the name of the state for the collection of
5970 the assessment imposed by Section [~~4-22-7~~] 4-22-201, enter into contracts, and incur
5971 indebtedness in furtherance of [~~its~~] the commission's business activities;

5972 (6) to cooperate with any local, state, or national organization engaged in activities
5973 similar to those of the commission;

5974 (7) to accept grants, donations, or gifts for use consistent with this chapter; and

5975 (8) to do all other things necessary for the efficient and effective management and
5976 operation of [~~its~~] the commission's business.

5977 Section 231. Section ~~4-22-107~~, which is renumbered from Section 4-22-4.5 is
5978 renumbered and amended to read:

5979 [~~4-22-4.5~~]. **4-22-107. Exemption from certain operational requirements.**

5980 The commission is exempt from:

- 5981 (1) Title 51, Chapter 5, Funds Consolidation Act;
 5982 (2) Title 51, Chapter 7, State Money Management Act;
 5983 (3) Title 63A, Utah Administrative Services Code;
 5984 (4) Title 63J, Chapter 1, Budgetary Procedures Act; and
 5985 (5) Title 67, Chapter 19, Utah State Personnel Management Act.

5986 Section 232. Section **4-22-108**, which is renumbered from Section 4-22-5 is
 5987 renumbered and amended to read:

5988 ~~[4-22-5]~~. **4-22-108. Commission may require surety bond -- Payment of**
 5989 **premium.**

5990 The commission may require the administrator, or any ~~[of its]~~ commission employees,
 5991 to post a surety bond conditioned for the faithful performance of ~~[their]~~ the commission's
 5992 official duties. The amount, form, and kind of such a bond shall be fixed by the commission
 5993 and each bond premium shall be paid by the commission.

5994 Section 233. Section **4-22-201**, which is renumbered from Section 4-22-7 is
 5995 renumbered and amended to read:

5996 **Part 2. Assessment**

5997 ~~[4-22-7]~~. **4-22-201. Assessment imposed on sale of milk or cream produced,**
 5998 **sold, or contracted for sale in state -- Time of assessment -- Collection by dealer or**
 5999 **producer-handler -- Penalty for delinquent payment or collection -- Statement to be given**
 6000 **to producer.**

6001 (1) An assessment of 10 cents is imposed upon each 100 pounds of milk or cream
 6002 produced and sold, or contracted for sale, through commercial channels in this state.

6003 (2) The assessment shall be:

6004 (a) based upon daily or monthly settlements; and

6005 (b) due at a time set by the commission, which may not be later than the last day of the
 6006 month next succeeding the month of sale.

6007 (3) (a) The assessment shall be:

6008 (i) assessed against the producer at the time the milk or milk fat is delivered for sale;

6009 (ii) deducted from the sales price; and

6010 (iii) collected by the dealer or producer-handler.

6011 (b) The proceeds of the assessment shall be paid directly to the commission who shall
6012 issue a receipt to the dealer or producer-handler.

6013 (c) If a dealer or producer-handler fails to remit the proceeds of the assessment or
6014 deduct the assessment on time, a penalty equal to 10% of the amount due shall be added to the
6015 assessment.

6016 (4) (a) At the time of payment of the assessment, the dealer or producer-handler shall
6017 deliver a statement to the producer calculating the assessment.

6018 (b) The commission may require other relevant information to be included in the
6019 statement.

6020 (5) If the mandatory assessment required by the Dairy and Tobacco Adjustment Act of
6021 1983, Pub. L. No. 98-180, 97 Stat. 1128 (1150.152), is abolished, a producer who objects to
6022 payment of the assessment imposed under this section[;] may, by January 31, submit a written
6023 request to the commission for a refund of the amount of the assessment the producer paid
6024 during the previous year.

6025 Section 234. Section **4-22-202**, which is renumbered from Section 4-22-8 is
6026 renumbered and amended to read:

6027 **[4-22-8]. 4-22-202. Revenue from assessment used to promote dairy industry**
6028 **-- Deposit of funds -- Annual audit of books, records, and accounts -- Annual financial**
6029 **report to producers.**

6030 (1) The revenue derived from the assessment imposed by Section [~~4-22-7~~] 4-22-201
6031 shall be used exclusively for the:

- 6032 (a) administration of this chapter; and
6033 (b) promotion of the state's dairy industry.

6034 (2) (a) A voucher, receipt, or other written record for each withdrawal from the Utah
6035 Dairy Commission Fund shall be kept by the commission.

6036 (b) No funds shall be withdrawn from the fund except upon order of the commission.

6037 (3) The commission may deposit the proceeds of the assessment in one or more
6038 accounts in one or more banks approved by the state as depositories.

6039 (4) The books, records, and accounts of the commission's activities are public records.

6040 (5) (a) The accounts of the commission shall be audited once annually by a licensed
6041 accountant selected by the commission and approved by the state auditor.

6042 (b) The results of the audit shall be submitted to the:

6043 (i) commissioner;

6044 (ii) commission; and

6045 (iii) Division of Finance.

6046 (c) It is the responsibility of the commission to send annually a financial report to each
6047 producer.

6048 Section 235. Section ~~4-22-203~~, which is renumbered from Section 4-22-8.5 is
6049 renumbered and amended to read:

6050 ~~[4-22-8.5]~~. **4-22-203. Additional assessment for government liaison and**
6051 **industry relations programs -- Exemption from the assessment.**

6052 (1) In addition to the assessment provided in Section ~~[4-22-7]~~ 4-22-201, an assessment
6053 of three-fourths of one cent is imposed upon each 100 pounds of milk or cream produced and
6054 sold, or contracted for sale, through commercial channels in this state for the purposes
6055 specified in Subsection (3).

6056 (2) The three-fourths of one cent assessment shall be paid in the same manner as the
6057 assessment required by Section ~~[4-22-7]~~ 4-22-201.

6058 (3) The commission shall use the revenue derived from the three-fourths of one cent
6059 assessment imposed by this section to contract out for services and expenses of government
6060 liaison and industry relations programs created to stabilize and protect the state's dairy industry
6061 and the health and welfare of the public.

6062 (4) A producer who objects to payment of the assessment imposed by this section may,
6063 by January 31, submit a written request to the commission to be exempted from payment of the
6064 assessment for that year. By January 1 each year, the commission shall send to each person
6065 subject to the assessment a postage-paid, self-addressed postcard [~~to each person subject to the~~
6066 ~~assessment~~] which may be returned to request an exemption.

6067 Section 236. Section ~~4-22-301~~, which is renumbered from Section 4-22-9 is
6068 renumbered and amended to read:

6069 **Part 3. Liability and Enforcement**

6070 ~~[4-22-9]~~. **4-22-301. State disclaimer of liability.**

6071 The state is not liable for the acts or omissions of the commission, ~~[its]~~ commission
6072 officers, agents, or employees.

6073 Section 237. Section **4-22-302**, which is renumbered from Section 4-22-9.5 is
6074 renumbered and amended to read:

6075 ~~[4-22-9.5]~~. **4-22-302**. **Commission not eligible for coverage under Risk**
6076 **Management Fund.**

6077 The commission is not eligible to receive coverage under the Risk Management Fund
6078 created under Section **63A-4-201**.

6079 Section 238. Section **4-22-303**, which is renumbered from Section 4-22-10 is
6080 renumbered and amended to read:

6081 ~~[4-22-10]~~. **4-22-303**. **Enforcement -- Inspection of books and records of dealer**
6082 **or producer-handler.**

6083 The commission at reasonable times may enter upon the premises and inspect the
6084 records of any dealer or producer-handler for the purpose of enforcing this chapter.

6085 Section 239. Section **4-23-101**, which is renumbered from Section 4-23-1 is
6086 renumbered and amended to read:

6087 **CHAPTER 23. AGRICULTURAL AND WILDLIFE DAMAGE PREVENTION ACT**

6088 ~~[4-23-1]~~. **4-23-101**. **Title.**

6089 This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "Agricultural and Wildlife
6090 Damage Prevention Act."

6091 Section 240. Section **4-23-102**, which is renumbered from Section 4-23-2 is
6092 renumbered and amended to read:

6093 ~~[4-23-2]~~. **4-23-102**. **Purpose declaration.**

6094 The Legislature finds and declares that it is important to the economy of the state to
6095 maintain agricultural production at ~~[its]~~ the highest possible level and at the same time, to
6096 promote, to protect, and preserve the wildlife resources of the state.

6097 Section 241. Section **4-23-103**, which is renumbered from Section 4-23-3 is
6098 renumbered and amended to read:

6099 ~~[4-23-3]~~. **4-23-103**. **Definitions.**

6100 As used in this chapter:

- 6101 (1) "Agricultural crops" means any product of cultivation;
6102 (2) "Board" means the Agricultural and Wildlife Damage Prevention Board;
6103 (3) "Bounty" means the monetary compensation paid to persons for the harvest of

6104 predatory or depredating animals;

6105 (4) "Damage" means any injury or loss to livestock, poultry, agricultural crops, or
6106 wildlife inflicted by predatory or depredating animals or depredating birds;

6107 (5) "Depredating animal" means a field mouse, gopher, ground squirrel, jack rabbit,
6108 raccoon, or prairie dog;

6109 (6) "Depredating bird" means a Brewer's blackbird or starling;

6110 (7) "Livestock" means cattle, horses, mules, sheep, goats, and swine;

6111 (8) "Predatory animal" means any coyote, cougar, or bear; and

6112 (9) "Wildlife" means any form of animal life generally living in a state of nature,
6113 except a predatory animal or a depredating animal or bird.

6114 Section 242. Section **4-23-104**, which is renumbered from Section 4-23-4 is
6115 renumbered and amended to read:

6116 ~~[4-23-4]~~. **4-23-104. Agricultural and Wildlife Damage Prevention Board**
6117 **created -- Composition -- Appointment -- Terms -- Vacancies -- Compensation.**

6118 (1) There is created an Agricultural and Wildlife Damage Prevention Board composed
6119 of the commissioner and the director of the Division of Wildlife Resources[;] who shall serve,
6120 respectively, as the board's chair and vice chair[;] together with seven other members appointed
6121 by the governor to four-year terms of office as follows:

6122 (a) one sheep producer representing wool growers of the state;

6123 (b) one cattle producer representing range cattle producers of the state;

6124 (c) one person from the United States Department of Agriculture;

6125 (d) one agricultural landowner representing agricultural landowners of the state;

6126 (e) one person representing wildlife interests in the state;

6127 (f) one person from the United States Forest Service; and

6128 (g) one person from the United States Bureau of Land Management.

6129 (2) Appointees' term of office shall commence June 1.

6130 (3) (a) Except as required by Subsection (3)(b), as terms of current board members
6131 expire, the governor shall appoint each new member or reappointed member to a four-year
6132 term.

6133 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
6134 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

6135 board members are staggered so that approximately half of the board is appointed every two
6136 years.

6137 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
6138 appointed for the unexpired term.

6139 (5) (a) Attendance of five members at a duly called meeting shall constitute a quorum
6140 for the transaction of official business.

6141 (b) The board shall convene at the times and places prescribed by the chair or vice
6142 chair.

6143 (6) A member may not receive compensation or benefits for the member's service, but
6144 may receive per diem and travel expenses in accordance with:

6145 (a) Section 63A-3-106;

6146 (b) Section 63A-3-107; and

6147 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
6148 63A-3-107.

6149 Section 243. Section 4-23-105, which is renumbered from Section 4-23-5 is
6150 renumbered and amended to read:

6151 ~~[4-23-5].~~ **4-23-105. Board responsibilities -- Damage prevention policy --**
6152 **Rules -- Methods to control predators and depredating birds and animals.**

6153 (1) The board is responsible for the formulation of the agricultural and wildlife damage
6154 prevention policy of the state and ~~[in conjunction with its responsibility]~~ may, consistent with
6155 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to implement ~~[its]~~ the
6156 agricultural and wildlife damage prevention policy which shall be administered by the
6157 department.

6158 (2) In ~~[its]~~ the board's policy deliberations the board shall:

6159 (a) specify programs designed to prevent damage to livestock, poultry, and agricultural
6160 crops; and

6161 (b) specify methods for the prevention of damage and for the selective control of
6162 predators and depredating birds and animals including hunting, trapping, chemical toxicants,
6163 and the use of aircraft.

6164 (3) The board may also:

6165 (a) specify bounties on designated predatory animals and recommend procedures for

6166 the payment of bounty claims, recommend bounty districts, recommend persons not authorized
6167 to receive bounty, and recommend to the department other actions [it] the board's considers
6168 advisable for the enforcement of [its] the board's policies; and

6169 (b) cooperate with federal, state, and local governments, educational institutions, and
6170 private persons or organizations, through agreement or otherwise, to effectuate [its] the board's
6171 policies.

6172 Section 244. Section **4-23-106**, which is renumbered from Section 4-23-6 is
6173 renumbered and amended to read:

6174 ~~[4-23-6]~~. **4-23-106. Department to issue licenses and permits -- Department to**
6175 **issue aircraft use permits -- Reports.**

6176 (1) The department is responsible for the issuance of permits and licenses for the
6177 purposes of the federal Fish and Wildlife Act of 1956. [No]

6178 (2) (a) A state agency or private person [shall] may not use any aircraft for the
6179 prevention of damage without first obtaining a use permit from the department.

6180 (b) A state agency [which] that contemplates the use of aircraft for the protection of
6181 agricultural crops, livestock, poultry, or wildlife shall file an application with the department
6182 for an aircraft use permit to enable the agency to issue licenses to personnel within the agency
6183 charged with the responsibility to protect such resources. [Persons]

6184 (c) A person who [desire] desires to use privately owned aircraft for the protection of
6185 land, water, crops, wildlife, or livestock may not engage in any such protective activity without
6186 first obtaining an aircraft permit from the department.

6187 (d) Agencies and private persons [which] that obtain aircraft use permits shall file such
6188 reports with the department as it deems necessary in the administration of its licensing
6189 authority.

6190 Section 245. Section **4-23-107**, which is renumbered from Section 4-23-7 is
6191 renumbered and amended to read:

6192 ~~[4-23-7]~~. **4-23-107. Annual fees on sheep, goats, cattle, and turkeys --**
6193 **Determination by board -- Collection methods.**

6194 (1) To assist the department in meeting the annual expense of administering this
6195 chapter, the following annual predator control fees are imposed upon animals owned by
6196 persons whose interests this chapter is designed to protect:

6197	Sheep and goats (except on farm dairy	
6198	goats or feeder lambs).....	at least \$.70 but not
6199		more than \$1 per head
6200	Cattle (except on farm dairy cattle).....	at least \$.15 but not
6201		more than \$.50 per head
6202	Turkeys (breeding stock only).....	at least \$.05 but not
6203		more than \$.10 per head

6204 (2) The amount of the fees imposed upon each category of animals specified in this
6205 section shall be determined by the board annually on or before January 1 of each year.

6206 (3) (a) Fee brand inspected cattle are subject to a predator control fee upon change of
6207 ownership or slaughter.

6208 (b) The fee shall be collected by the local brand inspector at the time of the inspection
6209 of cattle, or withheld and paid by the market from proceeds derived from the sale of the cattle.

6210 (c) Cattle that are fee brand inspected prior to confinement to a feedlot are not subject
6211 to any subsequent predator control fee.

6212 (4) (a) Fleece of sheared sheep is subject to a predator control fee upon sale of the
6213 fleece.

6214 (b) (i) The fee shall be withheld and paid by the marketing agency or purchaser of wool
6215 from proceeds derived from the sale of the fleece.

6216 (ii) The department shall enter into cooperative agreements with in-state and
6217 out-of-state wool warehouses and wool processing facilities for the collection of predator
6218 control fees on the fleece of sheep that graze on private or public range in the state.

6219 (c) The fee shall be based on the number of pounds of wool divided by 10 pounds for
6220 white face sheep and five pounds for black face sheep.

6221 (5) Predator control fees on turkey breeding stock shall be paid by the turkey
6222 cooperative.

6223 (6) (a) Livestock owners shall pay a predator control fee on any livestock that uses
6224 public or private range in the state which is not otherwise subject to the fee under Subsection
6225 (3) or (4).

6226 (b) By January 1, the commissioner shall mail to each owner of livestock specified in
6227 Subsection (6)(a) a reporting form requiring sufficient information on the type and number of

6228 livestock grazed in the state and indicating the fee imposed for each category of livestock.

6229 (c) Each owner shall file the completed form and the appropriate fee with the
6230 commissioner before April 1.

6231 (d) If any person who receives the reporting form fails to return the completed form
6232 and the imposed fee as required, the commissioner is authorized to commence suit through the
6233 office of the attorney general, in a court of competent jurisdiction, to collect the imposed fee,
6234 the amount of which shall be as determined by the commissioner.

6235 (7) All fees collected under this section shall be remitted to the department and
6236 deposited in the Agricultural and Wildlife Damage Prevention Account.

6237 Section 246. Section ~~4-23-108~~, which is renumbered from Section 4-23-7.5 is
6238 renumbered and amended to read:

6239 ~~[4-23-7.5]~~. **4-23-108. Agricultural and Wildlife Damage Prevention Account.**

6240 (1) There is created in the General Fund a restricted account known as the Agricultural
6241 and Wildlife Damage Prevention Account.

6242 (2) Money received under Section ~~[4-23-7]~~ 4-23-107 shall be deposited by the
6243 commissioner ~~[of agriculture and food in]~~ into the Agricultural and Wildlife Damage
6244 Prevention Account to be appropriated for the purposes provided in this chapter.

6245 (3) Any supplemental contributions received by the department from livestock owners
6246 for predator control programs shall be deposited into the Agricultural and Wildlife Damage
6247 Prevention Account.

6248 Section 247. Section ~~4-23-109~~, which is renumbered from Section 4-23-8 is
6249 renumbered and amended to read:

6250 ~~[4-23-8]~~. **4-23-109. Proceeds of sheep fee -- Refund of sheep fees -- Annual**
6251 **audit of books, records, and accounts.**

6252 (1) (a) Subject to the other provisions of this Subsection (1), the commissioner may
6253 spend an amount each year from the proceeds collected from the fee imposed on sheep for the
6254 promotion, advancement, and protection of the sheep interests of the state.

6255 (b) The amount described in Subsection (1)(a) shall be the equivalent to an amount
6256 that:

6257 (i) equals or exceeds 18 cents per head; and

6258 (ii) equals or is less than 25 cents per head.

- 6259 (c) The commissioner shall set the amount described in Subsection (1)(a):
6260 (i) on or before January 1 of each year; and
6261 (ii) in consultation with one or more statewide organizations that represent persons
6262 who grow wool.
- 6263 (d) A sheep fee is refundable in an amount equal to that part of the fee used to promote,
6264 advance, or protect sheep interests.
- 6265 (e) A refund claim shall be filed with the department on or before January 1 of the year
6266 immediately succeeding the year for which the fee was paid.
- 6267 (f) A refund claim shall be certified by the department to the state treasurer for
6268 payment from the Agricultural and Wildlife Damage Prevention Account created in Section
6269 ~~[4-23-7.5]~~ [4-23-108](#).
- 6270 (2) Any expense incurred by the department in administering refunds shall be paid
6271 from funds allocated for the promotion, advancement, and protection of the sheep interests of
6272 the state.
- 6273 (3) (a) The books, records, and accounts of the Utah Woolgrowers Association, or any
6274 other organization which receives funds from the agricultural and wildlife damage prevention
6275 account, for the purpose of promoting, advancing, or protecting the sheep interests of the state,
6276 shall be audited at least once annually by a licensed accountant.
- 6277 (b) The results of this audit shall be submitted to the commissioner.
- 6278 Section 248. Section ~~4-23-110~~, which is renumbered from Section 4-23-10 is
6279 renumbered and amended to read:
- 6280 ~~[4-23-10]~~. **4-23-110. Applicability of chapter.**
- 6281 This chapter, unless contrary to a federal statute, shall apply to all federal, state, and
6282 private lands.
- 6283 Section 249. Section ~~4-23-111~~, which is renumbered from Section 4-23-11 is
6284 renumbered and amended to read:
- 6285 ~~[4-23-11]~~. **4-23-111. Holding a raccoon or coyote in captivity prohibited --**
6286 **Penalty.**
- 6287 (1) No person may hold in captivity a raccoon or coyote, except as provided by rules of
6288 the Agricultural and Wildlife Damage Prevention Board.
- 6289 (2) The Division of Wildlife Resources, with the cooperation of the ~~[Department of~~

6290 ~~Agriculture and Food]~~ department and the Department of Health, shall enforce this section.

6291 (3) Any violation of this section is a class B misdemeanor.

6292 [~~4) This section does not prohibit a person from continuing to keep a raccoon or~~
6293 ~~coyote that he owns as of the effective date of this act.]~~

6294 Section 250. Section **4-24-101**, which is renumbered from Section 4-24-1 is
6295 renumbered and amended to read:

6296 **CHAPTER 24. UTAH LIVESTOCK BRAND AND ANTI-THEFT ACT**

6297 **Part 1. Administration and Board**

6298 [~~4-24-1].~~ **4-24-101. Title.**

6299 This chapter [~~shall be known and may be cited]~~ is known as the "Utah Livestock Brand
6300 and Anti-Theft Act."

6301 Section 251. Section **4-24-102**, which is renumbered from Section 4-24-2 is
6302 renumbered and amended to read:

6303 [~~4-24-2].~~ **4-24-102. Definitions.**

6304 As used in this chapter:

6305 (1) "Brand" means any identifiable mark applied to livestock which is intended to show
6306 ownership.

6307 (2) "Carcass" means any part of the body of an animal, including [~~hides;~~] entrails[;] and
6308 edible meats.

6309 (3) "Domesticated elk" [~~shall have the meaning as]~~ means the same as that term is
6310 defined in Section [4-39-102](#).

6311 (4) "Hide" means any skins or wool removed from livestock.

6312 (5) "Livestock" means cattle, calves, horses, mules, sheep, goats, hogs, or domesticated
6313 elk.

6314 (6) (a) "Livestock market" means a public market place consisting of pens or other
6315 enclosures where cattle, calves, horses, or mules are received on consignment and kept for
6316 subsequent sale, either through public auction or private sale.

6317 (b) "Livestock market" does not mean:

6318 (i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock
6319 breeder, or feeder who is going out of business; or

6320 (ii) a place where an association of livestock breeders under [~~its]~~ the association's own

6321 management, offers registered livestock or breeding sires for sale and assumes all
 6322 responsibility for the sale, guarantees title to the livestock or sires sold, and arranges with the
 6323 department for brand inspection of all animals sold.

6324 (7) "Mark" means any [~~dutap, waddle, or~~] cutting and shaping of the ears or brisket
 6325 area of livestock which is intended to show ownership.

6326 (8) "Open range" means land upon which cattle, sheep, or other domestic animals are
 6327 grazed or permitted to roam by custom, license, lease, or permit.

6328 [(8)] (9) "Slaughterhouse" means any building, plant, or establishment where animals
 6329 are [~~killed~~] harvested, dressed, or processed and their meat or meat products [~~offered for sale~~]
 6330 produced for human consumption.

6331 Section 252. Section **4-24-103**, which is renumbered from Section 4-24-3 is
 6332 renumbered and amended to read:

6333 [~~4-24-3~~]. **4-24-103. Department authorized to make and enforce rules.**

6334 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
 6335 Rulemaking Act, to make and enforce [~~such~~] rules as [~~in its judgment are~~] necessary to
 6336 administer and enforce this chapter.

6337 Section 253. Section **4-24-104**, which is renumbered from Section 4-24-4 is
 6338 renumbered and amended to read:

6339 [~~4-24-4~~]. **4-24-104. Livestock Brand Board created -- Composition -- Terms**
 6340 **-- Removal -- Quorum for transaction of business -- Compensation -- Duties.**

6341 (1) There is created the Livestock Brand Board consisting of seven members appointed
 6342 by the governor as follows:

6343 (a) four cattle ranchers recommended by the Utah Cattlemen's Association, one of
 6344 whom shall be a feeder operator;

6345 (b) one dairyman recommended by the Utah Dairymen's Association;

6346 (c) one livestock market operator recommended jointly by the Utah Cattlemen's
 6347 Association and the Utah Dairymen's Association and the Livestock Market Association; and

6348 (d) one horse breeder recommended by the Utah Horse Council.

6349 (2) If a nominee is rejected by the governor, the recommending association shall
 6350 submit another nominee.

6351 (3) (a) Except as required by Subsection (3)(b), as terms of current board members

6352 expire, the governor shall appoint each new member or reappointed member to a four-year
6353 term.

6354 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
6355 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
6356 board members are staggered so that approximately half of the board is appointed every two
6357 years.

6358 (4) (a) A member may, at the discretion of the governor, be removed at the request of
6359 the association that recommended the appointment.

6360 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
6361 appointed for the unexpired term.

6362 (5) One member elected by the board shall serve as chair for a term of one year and be
6363 responsible for the call and conduct of meetings of the Livestock Brand Board. Attendance of
6364 a simple majority of the members at a duly called meeting shall constitute a quorum for the
6365 transaction of official business.

6366 (6) A member may not receive compensation or benefits for the member's service, but
6367 may receive per diem and travel expenses in accordance with:

6368 (a) Section [63A-3-106](#);

6369 (b) Section [63A-3-107](#); and

6370 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
6371 [63A-3-107](#).

6372 (7) The Livestock Brand Board with the cooperation of the department shall direct the
6373 procedures and policies to be followed in administering and enforcing this chapter.

6374 Section 254. Section **4-24-105**, which is renumbered from Section 4-24-30 is
6375 renumbered and amended to read:

6376 **~~[4-24-30]~~. 4-24-105. Commission to appoint supervisor for brand inspection --**
6377 **Appointment subject to approval -- Salary.**

6378 (1) The commissioner shall appoint a state supervisor for livestock brand inspection,
6379 [~~but such appointment is~~] subject to the approval of the Livestock Brand Board.

6380 (2) The salary or compensation of the supervisor shall be fixed in accordance with
6381 standards adopted by the Division of Finance.

6382 Section 255. Section **4-24-201**, which is renumbered from Section 4-24-5 is

6383 renumbered and amended to read:

6384

Part 2. Brand and Marks

6385

~~[4-24-5].~~ 4-24-201. **Central Brand and Mark Registry -- Division of state into**

6386

mark districts -- Identical or confusingly similar brands -- Publication of registered

6387

brands and marks.

6388

(1) The department shall maintain a central Brand and Mark Registry which shall list

6389

each brand or mark recorded in this state. For each brand or mark registered the list shall

6390

specify:

6391

(a) the name and address of the registrant;

6392

(b) a facsimile of the brand recorded or a diagram showing the kind of mark recorded;

6393

(c) the location of the brand or mark upon the animal; and

6394

(d) the date the brand or mark is filed in the registry.

6395

(2) The commissioner may divide the state into districts for the purpose of recording

6396

marks but no mark ~~[which in the opinion of the commissioner]~~ that is identical or confusingly

6397

similar to a mark previously recorded in a district shall be recorded.

6398

(3) (a) No brand ~~[which in the opinion of the commissioner]~~ that is identical or

6399

confusingly similar to a brand previously filed in the central brand and mark registry shall be

6400

recorded.

6401

(b) If ~~[it appears that two or more]~~ two or more brands or marks appear identical or

6402

confusingly similar ~~[brands or marks have been recorded,];~~

6403

(i) the brand or mark first recorded shall prevail over a later conflicting brand or mark;

6404

~~[in which event,]~~ and

6405

(ii) the later brand or mark shall be cancelled and all recording fees refunded to the

6406

owner.

6407

(4) (a) The commissioner shall publish from time to time a list of all brands and marks

6408

recorded in the central Brand and Mark Registry and may issue supplements to such

6409

publication containing additional brands and marks or changes in ownership of brands and

6410

marks recorded after the last publication.

6411

(b) The brand book shall contain a facsimile of all brands and marks recorded together

6412

with the owner's name and address.

6413

(c) The commissioner shall send one copy of the brand book and each supplement to

6414 each brand inspector, county clerk, county sheriff, livestock organization, and any other person
6415 deemed appropriate.

6416 (d) Brand books and supplements shall be available to the public at the cost of printing
6417 and distribution per book or supplement.

6418 Section 256. Section **4-24-202**, which is renumbered from Section 4-24-7 is
6419 renumbered and amended to read:

6420 ~~[4-24-7]~~. **4-24-202. Recordation of brand or mark.**

6421 (1) (a) Application for a recorded brand or mark shall be made to the department upon
6422 forms prescribed and furnished by ~~[it]~~ the department.

6423 (b) The application shall contain such information as the commissioner prescribes.

6424 (c) No application shall be approved without payment of the appropriate recording fee.

6425 (d) Upon receipt of a proper application, payment of the recording fee, and recordation
6426 of the brand or mark in the central Brand or Mark Registry of the department, the
6427 commissioner shall issue the applicant a certified copy of recording ~~[which]~~ that entitles the
6428 applicant to the exclusive use of the brand or mark recorded.

6429 (2) (a) Each recorded brand or mark filed with the central Brand and Mark Registry
6430 shall expire during the calendar year 1980, and during each fifth year thereafter.

6431 (b) The department shall give notice in writing to all persons who are owners of
6432 recorded brands and marks within a reasonable time prior to the date of expiration of
6433 recordation.

6434 (c) Brand or mark renewal is effected by filing an appropriate application with the
6435 department together with payment of the renewal fee.

6436 (d) A recorded brand or mark, not timely renewed, shall lapse and be removed from the
6437 central Brand and Mark Registry.

6438 Section 257. Section **4-24-203**, which is renumbered from Section 4-24-8 is
6439 renumbered and amended to read:

6440 ~~[4-24-8]~~. **4-24-203. Fees for recordation, transfer, renewal, and certified**
6441 **copies of brands and marks.**

6442 (1) The department, with the approval of the Livestock Brand Board, shall charge and
6443 collect fees for the recordation, transfer, and renewal of any brand or mark in each position, and
6444 may charge a fee for a certified copy of the recordation.

6445 (2) The fees shall be determined by the department pursuant to Subsection [~~4-2-2~~]
 6446 [4-2-103](#)(2).

6447 Section 258. Section ~~4-24-204~~, which is renumbered from Section 4-24-9 is
 6448 renumbered and amended to read:

6449 [~~4-24-9~~]. **4-24-204. Effect of recorded brand or mark -- Transfer --**
 6450 **Reservation of certain brands.**

6451 [~~The~~] (1) Except as provided in Subsection (2), the owner of a recorded brand or mark
 6452 has a vested property right in [it which] the brand or mark that is transferable by a duly
 6453 acknowledged instrument[;], provided[;], that a transferee has no rights in the brand or mark
 6454 until the instrument of transfer is recorded with the department. [~~No~~]

6455 (2) Notwithstanding any other provision of this chapter:

6456 (a) no person [however;] other than a member of the Ute Indian Tribe has any vested
 6457 property right in the brand "ID" which is reserved exclusively for use by members of the Ute
 6458 Indian Tribe on the Uintah and Ouray Reservation; and

6459 (b) no person other than a member of the Navajo Indian Tribe has any vested right in
 6460 the brand "- N" (Bar N) which is reserved exclusively for use by members of the Navajo Indian
 6461 Tribe on the Navajo Indian Reservation [so] as long as it appears on the left shoulder of the
 6462 animal branded.

6463 (3) The left jaw of cattle is reserved exclusively for use by the department to identify
 6464 diseased cattle.

6465 Section 259. Section ~~4-24-205~~, which is renumbered from Section 4-24-10 is
 6466 renumbered and amended to read:

6467 [~~4-24-10~~]. **4-24-205. Livestock on open range or outside enclosure to be**
 6468 **marked or branded -- Cattle upon transfer of ownership to be marked or branded --**
 6469 **Exceptions.**

6470 (1) (a) Except as provided in Subsections (1)(b) and (c), no livestock shall forage upon
 6471 an open range in this state or outside an enclosure unless they bear a brand or mark recorded in
 6472 accordance with this chapter.

6473 (b) Swine, goats, and unweaned calves or colts are not required to bear a brand or mark
 6474 to forage upon open range or outside an enclosure.

6475 (c) Domesticated elk may not forage upon open range or outside an enclosure under

6476 any circumstances as provided in Chapter 39, Domesticated Elk Act.

6477 (2) (a) Except as provided in Subsection (2)(b), all cattle, upon sale or other transfer of
6478 ownership, shall be branded or marked with the recorded brand or mark of the new owner
6479 within 30 days after transfer of ownership.

6480 (b) No branding or marking, upon change of ownership, is required within the 30-day
6481 period for:

6482 (i) unweaned calves;

6483 (ii) registered or certified cattle;

6484 (iii) youth project calves, if the number transferred is less than five; or

6485 (iv) dairy cattle held on farms.

6486 Section 260. Section ~~4-24-301~~, which is renumbered from Section 4-24-6 is
6487 renumbered and amended to read:

6488 **Part 3. Inspections**

6489 ~~[4-24-6].~~ **4-24-301. State may be divided into brand inspection districts --**
6490 **Description filed with county clerk and sheriff.**

6491 (1) The commissioner, to facilitate and improve brand inspection, may divide the state
6492 into brand inspection districts.

6493 (2) A description covering each district shall be filed by the department with each
6494 county clerk and county sheriff in the state.

6495 (3) District boundaries may be changed as considered necessary by the commissioner,
6496 with the approval of the Livestock Brand Board.

6497 (4) Brand inspection stations within brand inspection districts may be located and
6498 established by the commissioner to assist in the enforcement of this chapter.

6499 Section 261. Section ~~4-24-302~~, which is renumbered from Section 4-24-11 is
6500 renumbered and amended to read:

6501 ~~[4-24-11].~~ **4-24-302. Certificate of brand inspection necessary to carry out**
6502 **change of ownership -- Exception.**

6503 ~~[(1) Except as provided in Subsection (2), the]~~ The ownership of cattle, horses,
6504 domesticated elk, or mules may not be transferred to any other person, through sale or
6505 otherwise, without a certificate of brand inspection issued by a department brand inspector.

6506 ~~[(2)(a) A brand inspection is not required to transfer ownership of dairy calves from~~

6507 ~~the farm of origin under 60 days of age.]~~

6508 ~~[(b) Any person who transports dairy calves that have not been brand inspected~~
6509 ~~pursuant to Subsection (2)(a) shall be required to show a sales invoice upon request.]~~

6510 Section 262. Section **4-24-303**, which is renumbered from Section 4-24-12 is
6511 renumbered and amended to read:

6512 ~~[4-24-12].~~ **4-24-303. Livestock -- Verification of ownership through brand**
6513 **inspection -- Issuance of certificate of brand inspection -- Brand inspector may demand**
6514 **evidence of ownership -- Brand inspection of livestock seized by the federal government**
6515 **prohibited -- Exception.**

6516 (1) A brand inspector, as an agent of the department, shall verify livestock ownership
6517 by conducting a brand inspection during daylight hours.

6518 (2) After conducting the brand inspection, the brand inspector, if satisfied that the
6519 livestock subject to inspection bears registered brands or marks owned by the owner of the
6520 livestock, shall issue a brand inspection certificate to the owner or owner's agent.

6521 (3) The brand inspector shall record the number, sex, breed, and brand or mark on each
6522 animal inspected together with the owner's name.

6523 (4) If any livestock subject to inspection bears a brand or mark other than that of the
6524 owner, or~~;~~ if no brand or mark appears on such livestock, the brand inspector may demand
6525 evidence of ownership ~~[such as a bill of sale or other evidence of ownership]~~ before issuing a
6526 brand inspection certificate.

6527 (5) A brand inspector may not issue a brand inspection certificate for any privately
6528 owned livestock seized by the federal government unless:

6529 (a) the brand inspector receives consent from the livestock's owner;

6530 (b) the owner is unknown; or

6531 (c) the brand inspector receives a copy of a court order authorizing the seizure.

6532 Section 263. Section **4-24-304**, which is renumbered from Section 4-24-13 is
6533 renumbered and amended to read:

6534 ~~[4-24-13].~~ **4-24-304. Brand inspection required before slaughter -- Exceptions.**

6535 (1) Except as provided in Subsection (2), a brand inspection is required before any
6536 cattle, calves, horses, domesticated elk, or mules are slaughtered.

6537 (2) A person may slaughter cattle, calves, horses, or mules for that person's own use

6538 without a brand inspection if the requirements of [~~Subsection 4-32-4(2)~~] Section 4-32-106 are
6539 met.

6540 Section 264. Section **4-24-305**, which is renumbered from Section 4-24-14 is
6541 renumbered and amended to read:

6542 ~~[4-24-14]~~. **4-24-305. Transportation by air or rail -- Brand inspection required**
6543 **-- Application for brand inspection -- Time and place of inspection.**

6544 (1) Except as provided in Subsection (2), no person may offer, or railroad or airline
6545 company accept, any cattle, calves, horses, domesticated elk, or mules for transport until they
6546 have been brand inspected.

6547 (2) Before cattle, calves, horses, domesticated elk, or mules are transported by rail or
6548 air, the shipper shall:

6549 (a) request the department to inspect the brands and marks of the animals being
6550 transported; and

6551 (b) specify the time and place where the animals may be inspected.

6552 [~~(3) Cattle, calves, horses, domesticated elk, or mules transported by rail or air shall be~~
6553 ~~brand inspected.~~]

6554 [~~(a) at a stockyard or at the initial point of shipment; or~~]

6555 [~~(b) if approved by the department, at a point or station along the transportation route.~~]

6556 [~~(4) The department shall conduct the inspection at the time and place specified by the~~
6557 ~~shipper or at any other time and place as determined by the department.~~]

6558 Section 265. Section **4-24-306**, which is renumbered from Section 4-24-15 is
6559 renumbered and amended to read:

6560 ~~[4-24-15]~~. **4-24-306. Movement across state line -- Brand inspection required**
6561 **-- Exception -- Request for brand inspection -- Time and place of inspection.**

6562 (1) Except as provided in Subsection (2), a person may not drive or transport any cattle,
6563 calves, horses, domesticated elk, or mules from any place within this state to a place outside
6564 this state until they have been brand inspected.

6565 (2) Subsection (1) does not apply if the animals specified in Subsection (1) customarily
6566 forage on an open range which transgresses the Utah state line and that of an adjoining state.

6567 (3) The owner or person responsible for driving or transporting the animals shall[~~:(a)~~]
6568 request the department to inspect the brands and marks of the animals to be moved[~~; and~~].

6569 ~~[(b) specify the time and place where the animals may be inspected.]~~

6570 (4) The department shall conduct the inspection at the time and place ~~[specified by the~~
6571 ~~owner or responsible person or at any other time and place as]~~ determined by the department.

6572 Section 266. Section ~~4-24-307~~, which is renumbered from Section 4-24-17 is
6573 renumbered and amended to read:

6574 ~~[4-24-17].~~ **4-24-307. Transportation of sheep, cattle, domesticated elk, horses,**
6575 **or mules -- Brand certificate or other evidence of ownership required -- Transit permit --**
6576 **Contents.**

6577 (1) No person may transport any sheep, cattle, horses, domesticated elk, or mules
6578 without having an official state brand certificate or other proof of ownership in his possession.

6579 (2) Each person transporting livestock for another person shall have a transit permit
6580 signed by the owner or the owner's authorized agent specifying the:

6581 (a) name of the person driving the vehicle;

6582 (b) date of transportation;

6583 (c) place of origin or loading;

6584 (d) destination;

6585 (e) date of issuance; ~~[and]~~

6586 (f) number of animals being transported~~[-]; and~~

6587 (g) full description of an animal being transported.

6588 Section 267. Section ~~4-24-308~~, which is renumbered from Section 4-24-21 is
6589 renumbered and amended to read:

6590 ~~[4-24-21].~~ **4-24-308. Brand inspection fees.**

6591 (1) The department with the approval of the Livestock Brand Board may set and collect
6592 a fee for the issuance of any certificate of brand inspection.

6593 (2) Brand inspection fees incurred for the inspection of such animals at a livestock
6594 market may be withheld by the market and paid from the proceeds derived from their sale.

6595 (3) The fee shall be determined by the department pursuant to Subsection ~~[4-2-2]~~
6596 4-2-103(2).

6597 Section 268. Section ~~4-24-309~~, which is renumbered from Section 4-24-16.3 is
6598 renumbered and amended to read:

6599 ~~[4-24-16.3].~~ **4-24-309. Livestock emergency.**

6600 (1) As used in this section, "livestock emergency" means:

6601 (a) the presence of a contagious, infectious, or transmissible disease risk to livestock;

6602 or

6603 (b) a natural disaster which may affect livestock.

6604 (2) During a livestock emergency, the department may require a person transporting
6605 livestock to present the livestock for brand inspection.

6606 Section 269. Section ~~4-24-401~~, which is renumbered from Section 4-24-18 is
6607 renumbered and amended to read:

6608 **Part 4. Sale, Transfer, and Travel**

6609 ~~[4-24-18]~~. **4-24-401. Hides and pelts -- Bill of sale to accompany purchase --**
6610 **Purchaser to maintain records -- Hides and records examination and inspection.**

6611 (1) (a) Any person who buys a hide or pelt shall secure a bill of sale from the seller.

6612 (b) The bill of sale shall be executed in duplicate[;] with one copy being retained by the
6613 seller and the other by the buyer.

6614 (c) The bill of sale shall specify the number of hides or pelts sold and the brand or
6615 mark borne by each hide [~~and~~] or pelt.

6616 (2) (a) Each hide buyer within this state shall maintain a record specifying the name
6617 and address of the seller, date of purchase, and the brands or other identification found on the
6618 hides and pelts purchased.

6619 (b) The hides and records of any hide buyer are subject to examination and inspection
6620 by the department at reasonable times and places.

6621 Section 270. Section ~~4-24-402~~, which is renumbered from Section 4-24-19 is
6622 renumbered and amended to read:

6623 ~~[4-24-19]~~. **4-24-402. Livestock markets -- Records to be maintained --**
6624 **Retention of records -- Schedule of fees and charges to be posted.**

6625 (1) Each owner or operator of a livestock market shall keep a record of:

6626 (a) the date each consignment of livestock is received for sale together with the number
6627 of each type of livestock within such consignment;

6628 (b) the name and address of each buyer;

6629 (c) the date of sale and the number and species of livestock purchased by each buyer;

6630 and

6631 (d) the description and brand or mark appearing on each animal at the time of sale to
6632 the buyer.

6633 (2) The records mandated by this section shall be retained for a period of two years
6634 from the date on which the livestock market sold the livestock.

6635 (3) A schedule of all fees and commission rates charged by the livestock market shall
6636 be posted in a conspicuous place on the premises of each market.

6637 (4) A statement of the gross sales price, commission, and other fees charged for the
6638 sale of each consignment shall be available for inspection by the department, and a copy
6639 furnished the owner or consignor of the livestock.

6640 Section 271. Section ~~4-24-403~~, which is renumbered from Section 4-24-31 is
6641 renumbered and amended to read:

6642 ~~[4-24-31].~~ **4-24-403. Websites promoting the sale of livestock.**

6643 (1) A website, created and maintained within the state, that markets the sale of
6644 livestock shall have the following statement clearly visible on each web page that displays
6645 advertised livestock: "Legality of Sales and Purchase, Health Laws. If you sell or purchase
6646 livestock on this site, you shall comply with all applicable legal requirements governing the
6647 transfer and shipment of livestock, including [Utah Code] Title 4, Chapter 24, Utah Livestock
6648 Brand and Anti-Theft Act, and Title 4, Chapter 31, Control of Animal Disease. Please contact
6649 the Utah Department of Agriculture and Food at 801-538-7137 with any questions."

6650 (2) A person who violates this section shall be subject to the penalties described in
6651 Section ~~[4-24-32]~~ 4-24-506.

6652 Section 272. Section ~~4-24-404~~, which is renumbered from Section 4-24-20 is
6653 renumbered and amended to read:

6654 ~~[4-24-20].~~ **4-24-404. Livestock sold at market to be brand inspected --**
6655 **Proceeds of sale may be withheld -- Distribution of withheld proceeds -- Effect of receipt**
6656 **of proceeds by department -- Deposit of proceeds -- Use of proceeds if ownership not**
6657 **established.**

6658 (1) (a) Livestock may not be sold at any livestock market until after they have been
6659 brand inspected by the department. [Title]

6660 (b) The livestock market shall furnish to the buyer title to purchased livestock ~~[shall be~~
6661 ~~furnished to the buyer by the livestock market].~~

6662 (2) (a) Upon notice from the department that a question exists concerning the
6663 ownership of consigned livestock, the operator of the livestock market or meat packing plant
6664 shall withhold the proceeds from the sale of the livestock for 60 days to allow the consignor of
6665 the questioned livestock to establish ownership.

6666 (b) If the owner or consignor fails within 60 days to establish ownership to the
6667 satisfaction of the department, the proceeds of the sale shall be transmitted to the department.

6668 (c) Receipt of the proceeds by the department shall relieve the livestock market or meat
6669 packing plant from further responsibility for the proceeds.

6670 (3) (a) Proceeds withheld under Subsection (2) shall be deposited [in] into the Utah
6671 Livestock Brand and Anti-Theft Account created in Section [~~4-24-24~~] [4-24-501](#).

6672 (b) If ownership is not satisfactorily established within one year, the department shall
6673 use the proceeds for animal identification.

6674 Section 273. Section **4-24-405**, which is renumbered from Section 4-24-22 is
6675 renumbered and amended to read:

6676 [~~4-24-22~~]. **4-24-405. Travel permit in lieu of brand inspection certificate --**
6677 **Fees -- Permit to accompany animal.**

6678 (1) The department may issue a permit upon the payment of a fee determined by the
6679 department pursuant to Subsection [~~4-2-2~~] [4-2-103](#)(2), in lieu of a certificate of brand
6680 inspection, for the transport of any show horse, show mule, or show cattle [~~within or~~]
6681 transported from any place within this state to a place outside the state.

6682 (2) The words "travel permit" shall be stamped or printed on the permit.

6683 (3) A permit:

6684 (a) shall accompany each show animal while [it] the show animal is in transit and shall
6685 identify the animal to which [it] the permit applies by age, sex, color, brand, mark, and scars[
6686 ~~A travel permit~~]; and

6687 (b) is valid for the calendar year of the date of issuance, which date shall appear on the
6688 permit.

6689 Section 274. Section **4-24-406**, which is renumbered from Section 4-24-23 is
6690 renumbered and amended to read:

6691 [~~4-24-23~~]. **4-24-406. Lifetime permit in lieu of brand inspection certificate --**
6692 **Fees -- Permit to accompany animal -- Transfer.**

6693 (1) The department may issue a "lifetime" permit upon the payment of a fee determined
 6694 by the department pursuant to Subsection [~~4-2-2~~] 4-2-103(2), in lieu of a certificate of brand
 6695 inspection, for the transport of any horse or mule within or outside the state.

6696 (2) The words "lifetime travel permit" shall be stamped or printed on the permit. The
 6697 permit shall accompany each horse or mule while it is in transit and shall identify the animal to
 6698 which it applies by age, sex, color, brand, and scars.

6699 (3) A lifetime transportation permit is valid for as long as the horse or mule to which it
 6700 applies continues to be owned by the person to whom the permit is issued.

6701 (4) A lifetime permit is transferable to a person within this state upon the transfer of
 6702 ownership of such an animal, upon application for transfer and the payment of a permit transfer
 6703 fee to the department in an amount determined by the department pursuant to Subsection
 6704 [~~4-2-2~~] 4-2-103(2).

6705 Section 275. Section **4-24-501**, which is renumbered from Section 4-24-24 is
 6706 renumbered and amended to read:

6707 **Part 5. Unlawful Acts and Penalties**

6708 [~~4-24-24~~]. **4-24-501. Utah Livestock Brand and Anti-Theft Account created --**
 6709 **Deposit of fees -- Purpose of expenditures.**

6710 (1) There is created within the General Fund a restricted account known as the Utah
 6711 Livestock Brand and Anti-Theft Account.

6712 (2) The following money shall be deposited into the Utah Livestock Brand and
 6713 Anti-Theft Account:

- 6714 (a) money received by the department under any provision of this chapter; and
 6715 (b) money received by the department under any provision of Title 4, Chapter 39,
 6716 Domesticated Elk Act.

6717 (3) Money in the Utah Livestock Brand and Anti-Theft Account shall be used for the
 6718 administration of this chapter and of Title 4, Chapter 39, Domesticated Elk Act.

6719 Section 276. Section **4-24-502**, which is renumbered from Section 4-24-25 is
 6720 renumbered and amended to read:

6721 [~~4-24-25~~]. **4-24-502. Unlawful acts specified -- Allegation concerning evidence**
 6722 **of ownership relative to hides.**

6723 (1) It is unlawful for any person to:

6724 (a) permit any cattle, calves, horses, mules, or sheep, except unweaned calves or colts,
6725 that are not branded or marked in accordance with this chapter, to forage upon an open range in
6726 this state or outside an enclosure;

6727 (b) brand or mark any livestock with a brand or mark which is not a matter of record on
6728 the central brand and mark registry;

6729 (c) obliterate, change, or remove a recorded brand or mark; or

6730 (d) destroy, mutilate, or conceal any hide with intent to, or for the purpose of, removing
6731 evidence of ownership of the hide, or ownership of the animal from which the hide was
6732 removed.

6733 (2) In any prosecution for violation of this section, the state need not allege the
6734 ownership of the hide, or the animal or carcass from which the hide was removed; the
6735 complaint or information being sufficient if it alleges that ownership is unknown and that the
6736 hide is not the property of the defendant.

6737 Section 277. Section **4-24-503**, which is renumbered from Section 4-24-26 is
6738 renumbered and amended to read:

6739 ~~[4-24-26].~~ **4-24-503. Use of vehicle to transport stolen livestock prohibited --**
6740 **Vehicle subject to seizure and sale -- Procedure for sale -- Defense.**

6741 (1) (a) No person shall use any vehicle for the transportation of stolen livestock or
6742 carcasses. ~~[Any]~~

6743 (b) A vehicle used in transporting stolen livestock or carcasses is subject to seizure and
6744 public sale by the sheriff of the county where [it] the vehicle is found~~[. No sale shall be made,~~
6745 ~~however, until], after~~ written notice of the proposed sale is served upon the person in whose
6746 custody the vehicle is found. ~~[Such]~~

6747 (2) A person who receives the notice described in Subsection (1)(b) has 10 days after
6748 service of the notice of proposed sale to respond to the notice, in which event~~;~~ no sale shall be
6749 conducted until after the issue of ownership or any other issues are litigated in a court of
6750 competent jurisdiction.

6751 (3) A stolen vehicle used for unlawful transportation is not subject to seizure and sale
6752 if the owner of the vehicle is not acting in concert with the thief.

6753 Section 278. Section **4-24-504**, which is renumbered from Section 4-24-28 is
6754 renumbered and amended to read:

6755 **[4-24-28]. 4-24-504. Enforcement -- Brand inspector's powers delineated.**

6756 (1) A brand inspector is empowered with the authority of a special function officer for
6757 the purpose of enforcing this chapter and such an inspector may, if [~~deemed~~] proper, stop any
6758 vehicle carrying livestock or livestock carcasses for the purpose of examining brands, marks,
6759 certificates of brand inspection, and bills of lading or bills of sale relating to the livestock in
6760 transit.

6761 (2) (a) Brand inspectors may enter any premises where livestock are kept or maintained
6762 for the purpose of examining brands or marks.

6763 (b) If admittance is refused, the department may proceed immediately to obtain an ex
6764 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
6765 for the purpose of examining brands or marks or other evidence of ownership.

6766 Section 279. Section **4-24-505**, which is renumbered from Section 4-24-29 is
6767 renumbered and amended to read:

6768 **[4-24-29]. 4-24-505. Commissioner authorized to cooperate with local**
6769 **governments, other states, or federal government in enforcement.**

6770 The commissioner is empowered with authority, if [~~deemed~~] necessary, to cooperate or
6771 enter into cooperative agreements with authorities in any city, town, or county within the state,
6772 or with federal authorities, or with authorities in another state for the purpose of securing
6773 assistance in the administration and enforcement of this chapter.

6774 Section 280. Section **4-24-506**, which is renumbered from Section 4-24-32 is
6775 renumbered and amended to read:

6776 **[4-24-32]. 4-24-506. Penalties.**

6777 A person who violates a provision of this chapter:

6778 (1) is guilty of a class B misdemeanor; and

6779 (2) may be subject to administrative fines, payable to the department, of up to \$1,000
6780 per violation.

6781 Section 281. Section **4-25-101** is enacted to read:

6782 **CHAPTER 25. ESTRAYS**

6783 **Part 1. Organization**

6784 **4-25-101. Title.**

6785 This chapter is known as "Estrays."

6786 Section 282. Section **4-25-102**, which is renumbered from Section 4-25-1 is
6787 renumbered and amended to read:

6788 ~~[4-25-1]~~. **4-25-102. Definitions.**

6789 For the purpose of this chapter:

6790 (1) (a) "Estray" means:

6791 (i) an unbranded sheep, cow, horse, mule, or ass~~[-or domestic mink]~~ found running at
6792 large;

6793 (ii) a branded sheep, cow, horse, mule, or ass~~[-or domestic mink]~~ found running at
6794 large whose owner cannot be found after reasonable search; or

6795 (iii) a swine found running at large whose owner cannot be found after reasonable
6796 search.

6797 (b) "Estray" does not mean any unweaned animal specified in this section that is
6798 running with its mother.

6799 (2) "Feral swine" means any species, or hybrid species:

6800 (a) of the family Suidae, including the European boar, the Eurasian boar, the Russian
6801 boar, a feral hog, or a domestic pig;

6802 (b) that is not conspicuously identified by an ear tag or other form of visual
6803 identification; and

6804 (c) that is roaming freely upon public land or private land ~~[without the permission of~~
6805 ~~the landowner]~~.

6806 (3) "Swine" means any domesticated species of the family Suidae that is conspicuously
6807 identified by an ear tag or other form of visible identification.

6808 Section 283. Section **4-25-103**, which is renumbered from Section 4-25-2 is
6809 renumbered and amended to read:

6810 ~~[4-25-2]~~. **4-25-103. County responsibility for estrays -- Contracts with other**
6811 **local governments authorized.**

6812 (1) Each county is responsible for the disposition of all estrays found within [its] the
6813 county's boundaries.

6814 (2) Each county in the discharge of [its] the county's responsibility, however, may
6815 contract upon mutually agreeable terms with any city, town, or other county with an animal
6816 control office to perform any or all of the functions imposed by this chapter.

6817 Section 284. Section **4-25-104**, which is renumbered from Section 4-25-3 is
 6818 renumbered and amended to read:

6819 ~~[4-25-3]~~. **4-25-104. Department authorized to make and enforce rules.**

6820 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
 6821 Rulemaking Act, to make and enforce such rules as in ~~[its]~~ the department's judgment are
 6822 necessary to administer and enforce this chapter.

6823 Section 285. Section **4-25-201**, which is renumbered from Section 4-25-4 is
 6824 renumbered and amended to read:

6825 **Part 2. Management of Estrays**

6826 ~~[4-25-4]~~. **4-25-201. Possession of estrays -- Determination and location of**
 6827 **owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from**
 6828 **liability.**

6829 (1) (a) Except as provided in Section ~~[4-25-5]~~ 4-25-202, a county shall:

6830 (i) take physical possession of an estray ~~[it]~~ the county finds within ~~[its]~~ county
 6831 boundaries; ~~[and]~~

6832 (ii) attempt to determine the name and location of the estray's owner~~[-];~~ and

6833 (iii) contact the local brand inspector.

6834 (b) The department shall assist a county that requests its help in determining the name
 6835 and location of the owner or other person responsible for the estray.

6836 (c) (i) Notwithstanding the requirements of Title 67, Chapter 4a, Unclaimed Property
 6837 Act, if the county cannot determine the estray's owner, or, if having determined ownership,
 6838 neither the county nor the department is able to locate the owner within a reasonable period of
 6839 time, the estray shall be sold at a livestock or other appropriate market.

6840 (ii) The proceeds of a sale under Subsection (1)(c)(i), less the costs described in
 6841 Subsection (1)(c)(iii), shall be paid to the county selling the estray.

6842 (iii) The livestock or other market conducting the sale under Subsection (1)(c)(i) may
 6843 deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.

6844 (2) A county shall publish notice of the sale of an estray:

6845 (a) at least once 10 days before the date of the sale; and

6846 (b) through electronic means or in a publication with general circulation within the
 6847 county where the estray was taken into custody.

6848 (3) A purchaser of an estray sold under this section shall receive title to the estray free
6849 and clear of all claims of the estray's owner and a person claiming title through the owner.

6850 (4) A county that complies with the provisions of this section is immune from liability
6851 for the sale of an estray sold at a livestock or other appropriate market.

6852 (5) Notwithstanding the requirements of Subsection (1)(c), a county may employ a
6853 licensed veterinarian to euthanize an estray if the licensed veterinarian determines that the
6854 estray's physical condition prevents the estray from being sold.

6855 Section 286. Section **4-25-202**, which is renumbered from Section 4-25-5 is
6856 renumbered and amended to read:

6857 ~~[4-25-5]~~. **4-25-202. Report of estrays -- Possession -- Relief from liability.**

6858 (1) As used in this section, "division" means the Division of Wildlife Resources.

6859 (2) A person, other than an official of the county or of an animal control office under
6860 contract with the county, who finds an estray shall report [it] the estray to the county or animal
6861 control office immediately.

6862 (3) Upon receipt of notification under Subsection (2), the county or the animal control
6863 office shall:

6864 (a) take possession of the estray; or

6865 (b) if appropriate, authorize the person in possession of the estray to maintain and care
6866 for [it] the estray pending determination and location of the estray's owner.

6867 (4) A person who gives notice of an estray and delivers [it] the estray to the county or
6868 animal control office is not liable to third parties on account of the estray to the extent of the
6869 value of the animal.

6870 (5) (a) If an employee of the department or the division, acting in the employee's
6871 official capacity, finds an estray, the employee shall:

6872 (i) comply with the requirements of Subsection (2); and

6873 (ii) make a reasonable attempt to contact the estray's owner.

6874 (b) The county or animal control office receiving a report of an estray from an
6875 employee of the department or the division shall:

6876 (i) take possession of the estray; or

6877 (ii) authorize the department or the division in writing or through electronic means to
6878 take possession of the estray.

6879 (c) If the county or animal control office does not comply with Subsection (5)(b)
6880 within 72 hours from the time the division reports an estray, the division may take possession
6881 of the estray.

6882 (d) If the division takes possession of the estray, the division shall:

6883 (i) make a reasonable attempt to return the estray to the estray's owner; or

6884 (ii) if unable to return the estray to the estray's owner, deliver the estray to the county
6885 or animal control office.

6886 (e) If the division is unable to take possession of the estray after a reasonable attempt,
6887 the division may cause the death of the estray if the division determines that the estray presents
6888 a material threat to wildlife by:

6889 (i) predation;

6890 (ii) pathogen transmission; or

6891 (iii) genetic introgression.

6892 (f) If the division causes the death of an estray under Subsection (5)(e), the division
6893 shall:

6894 (i) compensate the owner of the estray at full market value of the estray; or

6895 (ii) if the owner of the estray cannot be determined, deposit an amount equal to the full
6896 market value of the estray into the Agricultural and Wildlife Damage Prevention Account
6897 created in Section [~~4-23-7.5~~] [4-23-108](#).

6898 (6) Notwithstanding the requirements of Subsection (5), the division may immediately
6899 take possession of an estray or cause an estray to move away from wildlife if the estray presents
6900 an imminent material threat to wildlife by:

6901 (a) predation;

6902 (b) pathogen transmission; or

6903 (c) genetic introgression.

6904 Section 287. Section ~~4-25-203~~, which is renumbered from Section 4-25-6 is
6905 renumbered and amended to read:

6906 ~~[4-25-6]~~. **4-25-203. Compensation for care of estrays -- Liability of county --**
6907 **Notice required.**

6908 (1) A person who finds an estray and who, after giving notice is authorized by the
6909 county to maintain and care for [it] the estray, is entitled to compensation from the owner, or

6910 from the county, as the case may be, for the reasonable costs of feeding and maintaining the
6911 [~~animal~~] estray; provided, that the county is liable for such cost only if the owner is not located
6912 after diligent search.

6913 (2) No person who finds an estray however, is entitled to reimbursement for feed and
6914 maintenance or for any other cost incurred on behalf of the estray before such time as notice of
6915 the estray is given to the county or to the appropriate animal control office.

6916 Section 288. Section ~~4-25-204~~, which is renumbered from Section 4-25-7 is
6917 renumbered and amended to read:

6918 ~~[4-25-7]~~. **4-25-204. County legislative body authorized to adopt fence**
6919 **ordinance -- Lawful fence to be specified by ordinance -- Dividing the county into**
6920 **divisions for different fencing regulations.**

6921 (1) A county legislative body may, by ordinance, declare and enforce a general policy
6922 within the county for the fencing of farms, subdivisions, or other private property[;] to allow
6923 domestic animals to graze without trespassing on farms, subdivisions, or other private property.

6924 (2) If an ordinance is adopted under Subsection (1), the county legislative body:
6925 (a) shall through ordinance declare and specify what constitutes a lawful fence; and
6926 (b) may divide the county into divisions and prescribe different fencing regulations for
6927 each division.

6928 Section 289. Section ~~4-25-205~~, which is renumbered from Section 4-25-8 is
6929 renumbered and amended to read:

6930 ~~[4-25-8]~~. **4-25-205. Owner liable for trespass of animals -- Exception --**
6931 **Intervention by county representative.**

6932 (1) The owner of any [~~neat~~] cattle, horse, ass, mule, sheep, goat, or swine that
6933 trespasses upon the premises of another person, except in cases where the premises are not
6934 enclosed by a lawful fence in a county or municipality that has adopted a fence ordinance, is
6935 liable in a civil action to the owner or occupant of the premises for any damage inflicted by the
6936 trespass.

6937 (2) A county representative may intervene to remove the animal and the county is
6938 entitled to fair compensation for costs incurred. If the animal is not claimed within 10 days
6939 after written notification is sent to [~~its~~] the animal's owner, a county representative may sell the
6940 animal to cover costs incurred.

6941 (3) Notwithstanding Subsections (1) and (2), the owner of any ~~[neat]~~ cattle, horse, ass,
 6942 mule, sheep, goat, or swine that trespasses upon the premises of another person is not liable in
 6943 a civil action to the owner or occupant of the premises for damage inflicted by the trespass if:

6944 (a) the animal enters the premises from an historic livestock trail, as defined in Section
 6945 [57-13b-102](#); and

6946 (b) the premises that was trespassed is not enclosed by an adequate fence at the time
 6947 the trespass occurs.

6948 Section 290. Section ~~4-25-206~~, which is renumbered from Section 4-25-9 is
 6949 renumbered and amended to read:

6950 ~~[4-25-9]~~. **4-25-206. Animals running at large -- Prohibition -- Limited**
 6951 **exception.**

6952 ~~[No]~~ (1) Except as provided in Subsection (2), no person who owns or is in possession
 6953 of a stallion, jack, or ridgeling over 18 months old, or a ram over three months old, shall permit
 6954 ~~[it]~~ the animal to run at large within the limits of, or on the summer range of, any town or
 6955 settlement~~[-; provided, that two-thirds]~~.

6956 (2) Two-thirds of the voters of any county or isolated part of a county may elect
 6957 through an election to make this section ineffective in all or part of the county during part of
 6958 the year.

6959 Section 291. Section ~~4-25-301~~, which is renumbered from Section 4-25-12 is
 6960 renumbered and amended to read:

6961 ~~[4-25-12]~~. **4-25-301. Allowing swine to run at large -- Class B misdemeanor.**

6962 (1) A person is guilty of a class B misdemeanor if the person:

6963 (a) is in control of a swine; and

6964 (b) allows the swine to run at large.

6965 (2) A person described in Subsection (1) is liable for damage caused by the swine
 6966 running at large.

6967 Section 292. Section ~~4-25-302~~, which is renumbered from Section 4-25-12.1 is
 6968 renumbered and amended to read:

6969 ~~[4-25-12.1]~~. **4-25-302. Release of swine or feral swine for any purpose.**

6970 A person ~~[may not release]~~ is guilty of a third degree felony if the person releases a:

6971 (1) swine on public or private property for hunting purposes; or

6972 (2) feral swine on public or private property for any purpose.

6973 Section 293. Section ~~4-25-303~~, which is renumbered from Section 4-25-12.3 is
6974 renumbered and amended to read:

6975 ~~[4-25-12.3]~~. 4-25-303. Feral swine detrimental to state's interests -- Seizure,
6976 capture, or destruction of feral swine.

6977 (1) Feral swine are detrimental to the state's interests in agriculture and wildlife.

6978 (2) Feral swine may be seized, captured, or destroyed at any time, in any place, and in
6979 any manner by:

6980 (a) the department and ~~[its]~~ the department's authorized agents;

6981 (b) the Division of Wildlife Resources and ~~[its]~~ the Division of Wildlife Resources
6982 authorized agents; or

6983 (c) a certified peace officer.

6984 (3) (a) Notwithstanding Section ~~76-9-301~~, and subject to the requirements of this
6985 section, an individual may kill a feral swine roaming on private or public land.

6986 (b) An individual shall obtain the consent of the landowner before killing a feral swine
6987 on private land.

6988 (c) Feral swine may be killed:

6989 (i) year-round;

6990 (ii) in any number; and

6991 (iii) with a firearm, bow and arrow, or crossbow.

6992 (4) Feral swine may not be hunted or killed under Subsection (3)(c):

6993 (a) with the use of artificial light or night vision equipment, except as authorized by
6994 county ordinance; or

6995 (b) from or with any airborne vehicle or device, except as provided in Section ~~[4-23-6]~~
6996 4-23-106.

6997 (5) An individual may not receive compensation, or attempt to receive compensation,
6998 from hunting feral swine.

6999 (6) An authorized individual who kills a swine under this section is not liable to the
7000 owner for the loss of the swine, unless:

7001 (a) the swine is conspicuously identified by an ear tag or other form of visual
7002 identification; and

7003 (b) the individual who killed the swine knew the swine was identified by an ear tag or
7004 other form of usual identification.

7005 Section 294. Section ~~4-25-401~~, which is renumbered from Section 4-25-14 is
7006 renumbered and amended to read:

7007 **Part 4. Impounded Livestock**

7008 ~~[4-25-14]~~. **4-25-401. Impounded livestock -- Determination and location of**
7009 **owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from**
7010 **liability.**

7011 (1) As used in this section, "impounded livestock" means the following animals seized
7012 and retained in legal custody:

7013 (a) cattle;

7014 (b) calves;

7015 (c) horses;

7016 (d) mules;

7017 (e) sheep;

7018 (f) goats;

7019 (g) hogs; or

7020 (h) domesticated elk.

7021 (2) (a) A county may:

7022 (i) take physical possession of impounded livestock seized and retained within its
7023 boundaries; and

7024 (ii) attempt to determine the name and location of the impounded livestock's owner.

7025 (b) The department shall assist a county who requests help in locating the name and
7026 location of the owner or other person responsible for the impounded livestock.

7027 (c) (i) Notwithstanding the requirements of Title 67, Chapter 4a, Unclaimed Property
7028 Act, if the county cannot determine ownership of the impounded livestock, or, if having
7029 determined ownership, neither the county nor the department is able to locate the owner within
7030 a reasonable period of time, the impounded livestock shall be sold at a livestock or other
7031 appropriate market.

7032 (ii) The proceeds of a sale under Subsection (2)(c)(i), less the costs described in
7033 Subsection (2)(c)(iii), shall be paid to the State School Fund created by the Utah Constitution,

7034 Article X, Section 5, Subsection (1).

7035 (iii) The livestock or other market conducting the sale under Subsection (2)(c)(i) may
7036 deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.

7037 (3) A county shall publish the intended sale of the impounded livestock:

7038 (a) at least 10 days [~~prior to~~] before the date of sale; and

7039 (b) through electronic means or in a publication with general circulation within the
7040 county where the impounded livestock was taken into custody.

7041 (4) A purchaser of impounded livestock sold under this section shall receive title to the
7042 impounded livestock free and clear of all claims of the livestock's owner or a person claiming
7043 title through the owner.

7044 (5) If a county complies with the provisions of this section, [~~it~~] the county is immune
7045 from liability for the sale of impounded livestock sold at a livestock or other appropriate
7046 market.

7047 (6) Notwithstanding the requirements of Subsection (2)(c), a county may employ a
7048 licensed veterinarian to euthanize an impounded livestock if the licensed veterinarian
7049 determines that the impounded livestock's physical condition prevents the impounded livestock
7050 from being sold.

7051 Section 295. Section **4-26-101** is amended to read:

7052 **CHAPTER 26. ENCLOSURES AND FENCES**

7053 **4-26-101. Title -- Failure to close entrance to enclosure -- Class C misdemeanor --**

7054 **Damages.**

7055 (1) This chapter is known as "Enclosures and Fences."

7056 (2) A person who willfully throws down a fence or opens bars or gates into any
7057 enclosure other than the person's own enclosure or into any enclosure jointly owned or
7058 occupied by such person and others, and leaves [~~it~~] the enclosure open:

7059 (a) is guilty of a class C misdemeanor[;]; and

7060 (b) is liable in damage for any injury sustained by any person as a result of such an act.

7061 Section 296. Section **4-26-102** is amended to read:

7062 **4-26-102. Adjoining landowners -- Partition fences -- Contribution.**

7063 (1) If two or more persons agree to a fence enclosure or to the construction of a
7064 partition fence, the cost of construction and maintenance of the fence shall be apportioned

7065 between each party to the agreement based upon the amount of land enclosed.

7066 (2) A person who is a party to an agreement described in Subsection (1) and who fails
7067 to maintain such person's part of the fence is liable in a civil action for any damage sustained
7068 by another party to the agreement as a result of the failure to maintain the fence.

7069 (3) (a) If a person has enclosed land with a fence and the owner of adjoining land
7070 desires to enclose land adjoining the fence so that the existing fence or any part of it will
7071 become a partition fence between such tracts of land, the owner of the adjoining land shall,
7072 before making the enclosure, pay to the owner of the existing fence one-half of the value of all
7073 that part of the fence that will become a partition fence~~[-and when one party].~~

7074 (b) If a person whose land is enclosed, in whole or in part, by a partition fence ceases
7075 to improve or cultivate [his] that person's land or opens [his] the enclosure [he may not take
7076 away any part of the partition fence belonging to him, if the owner or occupant of the adjoining
7077 enclosure within 30 days after notice, pays for the value of such fence; nor shall the partition
7078 fence be removed if the crops enclosed by it will be exposed to injury.], the person:

7079 (i) shall give notice to the other owner of the partition fence and an opportunity to pay
7080 for the person's reasonable value of the fence;

7081 (ii) may not remove any part of the partition fence until the earlier of:

7082 (A) 30 days after the day on which the person gave notice to the other owner, as
7083 described in Subsection (3)(b)(i); or

7084 (B) the day the other owner pays the person for the person's reasonable value of the
7085 fence; and

7086 (iii) notwithstanding Subsection (3)(b)(ii), may not remove the partition fence if the
7087 crops enclosed by the fence will be exposed to injury.

7088 Section 297. Section **4-26-103** is amended to read:

7089 **4-26-103. Definitions -- Qualified landowners' and qualified adjoining**
7090 **landowners' partition fences -- Contribution -- Civil action for damages.**

7091 (1) As used in this section:

7092 (a) "Qualified adjoining landowner" means a private landowner whose land adjoins the
7093 land of a qualified landowner and is used for grazing livestock or as habitat for big game
7094 wildlife and:

7095 (i) is land which qualifies under the definition of "conservation easement" as defined in

- 7096 Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or
7097 (ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.
7098 (b) "Qualified landowner" means a private landowner whose land is used for grazing
7099 livestock and:
7100 (i) is land which qualifies under the definition of "conservation easement" as defined in
7101 Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or
7102 (ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.
7103 (2) A qualified landowner may require the qualified adjoining landowner to pay for
7104 one-half of the cost of the fence if:
7105 (a) the fence is or becomes a partition fence separating the qualified landowner's land
7106 from that belonging to the qualified adjoining landowner;
7107 (b) the cost is reasonable for that type of fence;
7108 (c) that type of fence is commonly found in that particular area; and
7109 (d) the construction of the fence is no more expensive than the cost for posts, wire, and
7110 connectors.
7111 (3) If the qualified adjoining landowner refuses, the qualified landowner may maintain
7112 a civil action against the qualified adjoining landowner for one-half of the cost of that portion
7113 of the fence.
7114 (4) The cost of the maintenance of the fence shall also be apportioned between each
7115 party based on the amount of land enclosed. A party who fails to maintain that party's part of
7116 the fence is also liable in a civil action for any damage sustained by the other party as a result
7117 of the failure to maintain the fence.
7118 Section 298. Section 4-26-104 is amended to read:
7119 **4-26-104. Fencing for bison.**
7120 Perimeter fencing intended to hold bison shall meet the following minimum standards:
7121 (1) fence sections and gates shall:
7122 (a) reach a height of at least [~~six~~] eight feet above ground level; and
7123 (b) be constructed in a mesh pattern consisting of:
7124 (i) hi-tensile steel wire of at least 14-1/2 gauge;
7125 (ii) a maximum mesh size of six inches by six inches; or
7126 (iii) a material with the strength equivalent of the material described in Subsections

- 7127 (1)(b)(i) and (ii);
- 7128 (2) fence posts shall:
- 7129 (a) (i) be constructed of treated wood at least four inches in diameter; and
- 7130 (ii) be constructed of a material with the strength equivalent of the material described
- 7131 in Subsection (2)(a)(i);
- 7132 (b) reach a height of at least six feet, two inches above ground level;
- 7133 (c) have at least two feet of length below ground level;
- 7134 (d) be installed at intervals of no more than 20 feet; and
- 7135 (e) if located on a corner or connected to a gate, be braced with wood or the strength
- 7136 equivalent of wood; and
- 7137 (3) fence stays shall:
- 7138 (a) be constructed of treated wood or steel;
- 7139 (b) be installed at intervals of no more than 10 feet from any fence post; and
- 7140 (c) reach a height of at least six feet, two inches above ground level.

7141 Section 299. Section **4-30-101** is enacted to read:

7142 **CHAPTER 30. LIVESTOCK MARKETS**

7143 **4-30-101. Title.**

7144 This chapter is known as "Livestock Markets."

7145 Section 300. Section **4-30-102**, which is renumbered from Section 4-30-1 is
7146 renumbered and amended to read:

7147 **~~4-30-1~~. 4-30-102. Definitions.**

7148 For the purpose of this chapter:

- 7149 (1) "Consignor" or "shipper" means any person who consigns, ships, or delivers
- 7150 livestock to a livestock market for storage, handling, or sale.
- 7151 (2) (a) "Livestock market" means a public market place consisting of pens or other
- 7152 enclosures where all classes of livestock or poultry are received on consignment and kept for
- 7153 subsequent sale, either through public auction or private sale.
- 7154 (b) "Livestock market" does not include:
- 7155 (i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock
- 7156 breeder, or feeder who is going out of such business; or
- 7157 (ii) a place where an association of livestock breeders or an individual livestock

7158 breeder offers registered livestock or breeding sires for sale and assumes all responsibility for
7159 the sale, guarantees title to the livestock or sires sold, and arranges with the department for
7160 brand inspection of all animals sold.

7161 (3) "Person" means an individual, partnership, corporation, or association.

7162 Section 301. Section **4-30-103**, which is renumbered from Section 4-30-2 is
7163 renumbered and amended to read:

7164 ~~[4-30-2]~~. **4-30-103. Livestock Market Committee created -- Composition --**
7165 **Terms -- Removal -- Compensation -- Duties.**

7166 (1) There is created a Livestock Market Committee which consists of the following
7167 seven members appointed to a four-year term of office by the commissioner:

7168 (a) one member recommended by the livestock market operators in the state;

7169 (b) one member recommended by the Utah Cattlemen's Association;

7170 (c) one member recommended by the Utah Dairymen's Association;

7171 (d) one member recommended by the Utah Woolgrowers^[1] Association;

7172 (e) one member recommended by the horse industry;

7173 (f) one member recommended by the Utah Farm Bureau Federation; and

7174 (g) one member recommended by the Utah Farmers Union.

7175 (2) Notwithstanding the requirements of Subsection (1), the commissioner shall, at the
7176 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
7177 committee members are staggered so that approximately half of the committee is appointed
7178 every two years.

7179 (3) No more than four members shall be members of the same political party.

7180 (4) (a) The commissioner may remove a member of the committee at the request of the
7181 association or group which recommended the member's appointment.

7182 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
7183 appointed for the unexpired term.

7184 (5) The Livestock Market Committee shall elect a chair from its membership, who
7185 shall serve for a term of office of two years, but may be reelected for subsequent terms.

7186 (6) (a) The chair is responsible for the call and conduct of meetings.

7187 (b) Four members constitute a quorum for the transaction of official business.

7188 (7) A member may not receive compensation or benefits for the member's service, but

7189 may receive per diem and travel expenses in accordance with:

7190 (a) Section 63A-3-106;

7191 (b) Section 63A-3-107; and

7192 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

7193 63A-3-107.

7194 (8) The Livestock Market Committee acts as advisor to the department with respect to
7195 the administration and enforcement of this chapter and makes recommendations necessary to
7196 carry out the intent of this chapter to the commissioner.

7197 Section 302. Section 4-30-104, which is renumbered from Section 4-30-3 is
7198 renumbered and amended to read:

7199 ~~[4-30-3]~~. **4-30-104. Department authorized to make and enforce rules.**

7200 The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
7201 Rulemaking Act, to make and enforce such rules ~~[as in its judgment are]~~ necessary to
7202 administer and enforce this chapter.

7203 Section 303. Section 4-30-105, which is renumbered from Section 4-30-4 is
7204 renumbered and amended to read:

7205 ~~[4-30-4]~~. **4-30-105. License required -- Application -- Fee -- Expiration --
7206 Renewal.**

7207 (1) (a) No person may operate a livestock market in this state without a license issued
7208 by the department.

7209 (b) Application for a license shall be made to the department upon forms prescribed
7210 and furnished by ~~[it. The]~~ the department, and the application shall specify:

7211 (i) if the applicant is an individual, the name, address, and date of birth of the
7212 applicant; or

7213 (ii) if the applicant is a partnership, corporation, or association, the name, address, and
7214 date of birth of each person who has a financial interest in the applicant and the amount of each
7215 person's interest;

7216 (iii) a certified statement of the financial assets and liabilities of the applicant detailing:

7217 (A) current assets;

7218 (B) current liabilities;

7219 (C) long-term assets; and

7220 (D) long-term liabilities;
7221 (iv) a legal description of the property where the market is proposed to be located, [its]
7222 the property's street address, and a description of the facilities proposed to be used in
7223 connection with [it] the property;

7224 (v) a schedule of the charges or fees the applicant proposes to charge for each service
7225 rendered; and

7226 (vi) a detailed statement of the trade area proposed to be served by the applicant, the
7227 potential benefits which will be derived by the livestock industry, and the specific services the
7228 applicant intends to render at the livestock market.

7229 (2) (a) Upon receipt of a proper application, payment of a license fee in an amount
7230 determined by the department pursuant to Subsection [~~4-2-2~~] [4-2-103](#)(2), and a favorable
7231 recommendation by the Livestock Market Committee, the commissioner, if satisfied that the
7232 convenience and necessity of the industry and the public will be served, shall issue a license
7233 allowing the applicant to operate the livestock market proposed in the application valid through
7234 December 31 of the year in which the license is issued, subject to suspension or revocation for
7235 cause.

7236 (b) A livestock market license is annually renewable on or before December 31 of each
7237 year upon the payment of an annual license renewal fee in an amount determined by the
7238 department pursuant to Subsection [~~4-2-2~~] [4-2-103](#)(2).

7239 (3) No livestock market original or renewal license may be issued until the applicant
7240 has provided the department with a certified copy of a surety bond filed with the United States
7241 Department of Agriculture as required by the Packers and Stockyards Act, 1921, 7 U.S.C.
7242 Section 181 et seq.

7243 Section 304. Section **4-30-106**, which is renumbered from Section 4-30-5 is
7244 renumbered and amended to read:

7245 [~~4-30-5~~]. **4-30-106. Hearing on license application -- Notice of hearing.**

7246 (1) Upon the filing of an application, the chairman of the Livestock Market Committee
7247 shall set a time for hearing on the application in the city or town nearest the proposed site of the
7248 livestock market and cause notice of the time and place of the hearing together with a copy of
7249 the application to be forwarded by mail, not less than 15 days before the hearing date, to the
7250 following:

7251 (a) each licensed livestock market operator within the state; and
7252 (b) each livestock or other interested association or group of persons in the state that
7253 has filed written notice with the committee requesting receipt of notice of such hearings.

7254 (2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

7255 (a) in a daily or weekly newspaper of general circulation within the city or town where
7256 the hearing is scheduled; and

7257 (b) on the Utah Public Notice Website created in Section [63F-1-701](#).

7258 Section 305. Section **4-30-107**, which is renumbered from Section 4-30-6 is

7259 renumbered and amended to read:

7260 **~~[4-30-6]~~. 4-30-107. Livestock Market Committee -- Guidelines delineated for**
7261 **decision on application.**

7262 (1) The Livestock Market Committee in determining whether to recommend approval
7263 or denial of the application shall consider:

7264 (a) the applicant's proven or potential ability to comply with the Packers and
7265 Stockyards Act, 7 U.S.C. Sec. 221 through 229b;

7266 (b) the financial stability, business integrity, and fiduciary responsibility of the
7267 applicant;

7268 (c) the livestock marketing benefits which potentially will be derived from the
7269 establishment and operation of the public livestock market proposed;

7270 (d) the need for livestock market services in the trade area proposed;

7271 (e) the adequacy of the livestock market location and facilities proposed in the
7272 application, including facilities for health inspection and testing;

7273 (f) whether the operation of the proposed livestock market is likely to be permanent;
7274 and

7275 (g) the economic feasibility of the proposed livestock market based on competent
7276 evidence.

7277 (2) Any interested person may appear at the hearing on the application and give an
7278 opinion or present evidence either for or against granting the application.

7279 Section 306. Section **4-30-108**, which is renumbered from Section 4-30-7 is
7280 renumbered and amended to read:

7281 **~~[4-30-7]~~. 4-30-108. Transfer of livestock market license permitted --**

7282 **Conditions.**

7283 (1) No livestock market license is transferable to another person without the prior
7284 approval of the commissioner.

7285 (2) A change in the membership of a partnership or association, or the sale or transfer
7286 of a 25% or greater interest in the stock ownership of a corporate livestock market shall be
7287 considered a transfer of the livestock market license and is subject to the requirements of this
7288 section.

7289 (3) Application to allow transfer of a livestock market license shall be made to the
7290 department on a form prescribed and furnished by [it] the department.

7291 (4) The commissioner may grant a transfer of the license:

7292 (a) if the proposed transferee meets all the requirements specified for an original
7293 license in Section [~~4-30-4~~] 4-30-105; and

7294 (b) based on the criteria specified in Section [~~4-30-6~~] 4-30-107.

7295 Section 307. Section **4-30-109**, which is renumbered from Section 4-30-7.5 is
7296 renumbered and amended to read:

7297 [~~4-30-7.5~~]. **4-30-109. Financial responsibility.**

7298 Each livestock market shall maintain a financial condition of total assets in excess of
7299 total liabilities, including total current assets in excess of total current liabilities.

7300 Section 308. Section **4-30-110**, which is renumbered from Section 4-30-7.6 is
7301 renumbered and amended to read:

7302 [~~4-30-7.6~~]. **4-30-110. Custodial accounts for trust funds.**

7303 (1) (a) Each payment that a livestock buyer makes to a livestock market selling on
7304 commission is a trust fund.

7305 (b) Funds deposited [~~in~~] into custodial accounts are trust funds.

7306 (2) Each livestock market engaged in selling livestock on a commission or agency
7307 basis shall establish and maintain a separate bank account designated as "custodial account for
7308 shippers' proceeds," or some similar identifying designation, to disclose that the depositor is
7309 acting as a fiduciary and that the funds in the account are trust funds.

7310 (3) (a) The livestock market shall deposit [~~in~~] into its custodial account before the close
7311 of the next business day after the livestock is sold:

7312 (i) the proceeds that have been collected from the sale of the livestock [~~that have been~~

7313 collected]; and

7314 (ii) an amount equal to the proceeds receivable from the sale of livestock that are due
7315 from:

7316 (A) the livestock market;

7317 (B) any owner, officer, or employee of the livestock market; and

7318 (C) any buyer to whom the livestock market has extended credit.

7319 (b) The livestock market shall thereafter deposit ~~[it]~~ into the custodial account all
7320 proceeds collected until the account has been reimbursed in full~~;~~ and shall, before the close of
7321 the seventh day following the sale of livestock, deposit an amount equal to all the remaining
7322 proceeds receivable regardless of whether ~~[or not]~~ the proceeds have been collected by the
7323 livestock market.

7324 (4) The custodial account shall be drawn on only ~~[for payment of]~~:

7325 (a) for payment of the net proceeds to the consignor or shipper, or to any person that
7326 the livestock market knows is entitled to payment;

7327 (b) to pay lawful charges against the consignment of livestock which the market agency
7328 shall, in its capacity as agent, be required to pay; and

7329 (c) to obtain any sums due the livestock market as compensation for its services.

7330 (5) (a) Each livestock market shall keep accounts and records that will disclose at all
7331 times the handling of funds in the custodial account.

7332 (b) Accounts and records shall at all times disclose the name of the consignors and the
7333 amount due and payable to each from funds in the custodial account.

7334 (6) The custodial account shall be established and maintained in a bank whose deposits
7335 are insured by the Federal Deposit Insurance Corporation.

7336 Section 309. Section **4-30-111**, which is renumbered from Section 4-30-8 is
7337 renumbered and amended to read:

7338 ~~[4-30-8]~~. **4-30-111. Weighman license required -- Application -- Fee -- Bond**
7339 **-- Expiration -- Renewal.**

7340 (1) (a) No person may act as a weighman at a livestock market without a license from
7341 the department.

7342 (b) Application for a weighman's license shall be made to the department upon forms
7343 prescribed and furnished by ~~[it]~~ the department.

7344 (c) Upon receipt of a proper application, payment of a license fee in an amount
 7345 determined by the department pursuant to Subsection [~~4-2-2~~] 4-2-103(2), and deposit of either
 7346 a corporate surety bond or trust fund agreement with the department in the principal amount of
 7347 \$1,000, the commissioner shall issue a license allowing the applicant to act as a weighman
 7348 through December 31 of the year in which the license is issued, subject to suspension or
 7349 revocation for cause.

7350 (d) A weighman's license is annually renewable on or before December 31 of each year
 7351 upon the payment of an annual license renewal fee in an amount determined by the department
 7352 pursuant to Subsection [~~4-2-2~~] 4-2-103(2).

7353 (2) (a) Each weighman's surety bond shall be written by a surety licensed under the
 7354 laws of Utah and name the state, as obligee, for the use and benefit of persons who consign
 7355 livestock to a livestock market.

7356 (b) The bond shall further be conditioned for the faithful and accurate weighing of
 7357 livestock consigned to a livestock market[;] and for the payment of court costs and [a]
 7358 reasonable [~~attorney's fee~~] attorney fees to the prevailing party incident to any suit brought
 7359 upon the bond.

7360 Section 310. Section **4-30-112**, which is renumbered from Section 4-30-9 is
 7361 renumbered and amended to read:

7362 [~~4-30-9~~]. **4-30-112. Suspension or revocation of license -- Grounds.**

7363 The department is authorized to suspend or revoke the license of any livestock market
 7364 or livestock market weighman who:

7365 (1) violates any provision of this chapter or any rule [~~promulgated~~] made under this
 7366 chapter; or

7367 (2) engages in any fraudulent or deceitful activity.

7368 Section 311. Section **4-31-105** is amended to read:

7369 **4-31-105. Outbreak of contagious or infectious disease -- Assistance of federal**
 7370 **authorities.**

7371 If there is an outbreak of contagious or infectious disease among domestic animals in
 7372 this state that imperils livestock [~~in adjoining states~~], the commissioner [~~shall seek~~] may
 7373 request the assistance of the United States Department of Agriculture, Animal and Plant Health
 7374 Inspection Service, in preventing the spread of the disease to other states.

7375 Section 312. Section **4-31-106** is amended to read:

7376 **4-31-106. Epidemic of contagious or infectious disease -- Condemnation or**
7377 **destruction of infected or exposed livestock -- Destruction of other property.**

7378 (1) If there is an outbreak of contagious or infectious foreign animal disease of
7379 epidemic proportion among domestic animals in this state that imperils livestock, the
7380 commissioner, with approval of the governor, may condemn, destroy, or dispose of any
7381 infected livestock or any livestock exposed to~~[, or deemed]~~ the disease or considered by the
7382 commissioner capable of~~[;]~~ communicating the disease to other domestic animals.

7383 (2) The commissioner may, with gubernatorial approval, condemn and destroy any
7384 barns, sheds, corrals, pens, or other property necessary to prevent the spread of contagion or
7385 infection.

7386 Section 313. Section **4-31-107** is amended to read:

7387 **4-31-107. Appraisal of fair market value before destruction.**

7388 (1) Before any livestock or property is ~~[condemned and]~~ destroyed under Section
7389 **4-31-106**, an appraisal of the fair market value of the livestock or other property shall be
7390 forwarded to the commissioner by a panel of three qualified appraisers appointed as follows:

7391 (a) one by the commissioner;

7392 (b) one by the owner of the livestock or other property subject to condemnation; and

7393 (c) one by the appraisers specified in Subsections (1)(a) and (b).

7394 (2) After review, the commissioner shall forward the appraisal to the board of
7395 examiners described in Subsection **63G-9-201(2)**~~[;]~~ together with the commissioner's
7396 recommendation concerning the amount, if any, that should be allowed.

7397 (3) Any costs incurred in the appraisal shall be paid by the state.

7398 Section 314. Section **4-31-108** is amended to read:

7399 **4-31-108. Euthanasia for postmortem examination.**

7400 The commissioner may order the ~~[slaughter and post-mortem]~~ euthanasia and
7401 postmortem examination of a diseased domestic animal if the exact nature of the animal's
7402 disease is not readily ~~[ascertained]~~ determined through other means.

7403 Section 315. Section **4-31-109.1** is amended to read:

7404 **4-31-109.1. Trichomoniasis fines.**

7405 (1) A person who knowingly sells a bull infected with trichomoniasis, other than to

7406 slaughter, without declaring the disease status of the animal shall be subject to citation and
7407 fines as prescribed by the department or may be called to appear before an administrative
7408 proceeding by the department, as established by rule in accordance with Title 63G, Chapter 3,
7409 Utah Administrative Rulemaking Act, and Section [4-31-109](#).

7410 (2) After May 15 of each calendar year, an owner of a bull that has not been tested for
7411 trichomoniasis ~~shall~~ may be fined \$1,000 per ~~[violation]~~ bull.

7412 (3) An owner of a bull that has not been tested for trichomoniasis and that has been
7413 exposed to female cattle ~~shall~~ may be fined \$1,000 per ~~[violation]~~ animal regardless of the
7414 time of year.

7415 Section 316. Section **4-31-113** is amended to read:

7416 **4-31-113. Restrictions on movement of infected or exposed animals.**

7417 (1) A person who owns or has possession of an animal and knows that the animal is
7418 infected with, or has been exposed to, any contagious or infectious disease~~;~~ may not:

7419 (a) permit the animal to run at large~~;~~ or come in contact with~~;~~ an animal that can be
7420 infected; or

7421 (b) sell, ship, trade, or give away ~~[an]~~ the infected animal without disclosing that the
7422 animal is diseased or has been exposed to disease.

7423 (2) A person who violates Subsection (1) is liable to the owner or occupant of the
7424 premises for any damage inflicted by an infected animal.

7425 ~~[(2)]~~ (3) The provisions of this section do not apply to protected wildlife that is:

7426 (a) living in nature; and

7427 (b) under the jurisdiction of the Division of Wildlife Resources.

7428 Section 317. Section **4-31-114** is amended to read:

7429 **4-31-114. Report of vesicular disease.**

7430 (1) A person who identifies symptoms of vesicular disease in livestock shall
7431 immediately report it to the department.

7432 (2) Failure of a veterinarian licensed in this state to report to the department a
7433 diagnosed case of vesicular disease ~~[to the department]~~ constitutes ground for the revocation of
7434 such veterinarian's license.

7435 (3) Failure by an owner of livestock to report symptoms of vesicular disease among the
7436 owner's livestock constitutes forfeiture of the right to claim an indemnity for an animal

7437 [~~slaughtered~~] euthanized on account of the disease.

7438 Section 318. Section **4-31-115** is amended to read:

7439 **4-31-115. Contagious or infectious disease -- Duties of department.**

7440 (1) (a) The department shall investigate and may quarantine any reported case of
7441 contagious or infectious disease, or any epidemic[;] or poisoning₂ affecting a domestic animal
7442 or an animal that the department believes may jeopardize the health of animals within the state.

7443 (b) The department shall make a prompt and thorough examination of all
7444 circumstances surrounding the disease, epidemic, or poisoning and may order quarantine, care,
7445 or any necessary remedies.

7446 (c) The department may also order immunization or testing and sanitary measures to
7447 prevent the spread of disease.

7448 (d) [~~Investigations~~] An investigation involving fish or wildlife shall be conducted
7449 under a cooperative agreement with the Division of Wildlife Resources.

7450 (2) (a) If the owner or person in possession of such [~~animals~~] an animal, after written
7451 notice from the department, fails to take the action ordered, the commissioner is authorized to
7452 seize and hold the [~~animals~~] animal and take action necessary to prevent the spread of disease,
7453 including immunization, testing, dipping, or spraying.

7454 (b) An animal seized for testing or treatment under this section [~~shall~~] may be sold by
7455 the commissioner at public sale to reimburse the department for all costs incurred in the
7456 seizure, testing, treatment, maintenance, and sale of the animal unless the owner, before the
7457 sale, tenders payment for the costs incurred by the department.

7458 (c) (i) No seized animal shall be sold until the owner or person in possession of the
7459 animal is served with a notice specifying the itemized costs incurred by the department [~~and~~],
7460 the time, place, and purpose of sale₂ and the number of animals to be sold.

7461 (ii) The notice shall be served at least three days in advance of sale in the manner:

7462 (A) prescribed for personal service in Rule 4(d)(1), Utah Rules of Civil Procedure; or

7463 (B) if the owner cannot be found after due diligence, [~~in the manner~~] prescribed for
7464 service by publication in Rule 4(d)(4), Utah Rules of Civil Procedure.

7465 (3) (a) Any amount realized from the sale of the animal over the total charges shall be
7466 paid to the owner of the animal[;] if the owner is known or can by reasonable diligence be
7467 found[; ~~otherwise~~].

7468 (b) If the owner is unknown and cannot be found by reasonable diligence, as described
 7469 in Subsection (3)(a), the excess shall remain in the General Fund.

7470 (c) If the total cost incurred is greater than the amount realized, the owner shall pay the
 7471 difference.

7472 Section 319. Section **4-31-116** is amended to read:

7473 **4-31-116. Quarantine -- Peace officers to assist in maintenance of quarantine.**

7474 (1) The commissioner may quarantine any infected domestic animal or area within the
 7475 state to prevent the spread of infectious or contagious disease.

7476 (2) A sheriff or other peace officer in the state shall, upon request of the commissioner,
 7477 assist the department in maintaining a quarantine and arrest a person who violates [it] the
 7478 quarantine.

7479 (3) The department shall pay all costs and fees incurred by any law enforcement
 7480 authority in assisting the department.

7481 Section 320. Section **4-32-101**, which is renumbered from Section 4-32-1 is
 7482 renumbered and amended to read:

7483 **CHAPTER 32. UTAH MEAT AND POULTRY PRODUCTS INSPECTION AND**
 7484 **LICENSING ACT**

7485 ~~[4-32-1].~~ **4-32-101. Title.**

7486 This chapter ~~[shall be]~~ is known as ~~[and may be cited as]~~ the "Utah Meat and Poultry
 7487 Products Inspection and Licensing Act."

7488 Section 321. Section **4-32-102**, which is renumbered from Section 4-32-2 is
 7489 renumbered and amended to read:

7490 ~~[4-32-2].~~ **4-32-102. Purpose declaration.**

7491 (1) It is the purpose of this chapter to provide a meat and poultry inspection program in
 7492 the state at least equal to the programs imposed under the:

7493 (a) Federal Meat Inspection Act, [the federal] 21 U.S.C. Sec. 601 et seq;

7494 (b) Poultry Products Inspection Act, [and the] 21 U.S.C. Sec. 451 et seq;

7495 (c) Humane Slaughter Act[-], 7 U.S.C. Sec. 1901 et seq; and

7496 (d) the Egg Product Inspection Act, 21 U.S.C. 1031 et seq.

7497 (2) The commissioner shall administer and enforce this chapter to accomplish ~~[this]~~ the
 7498 purpose described in Subsection (1).

7499 Section 322. Section **4-32-103**, which is renumbered from Section 4-32-2.1 is
7500 renumbered and amended to read:

7501 ~~[4-32-2.1]~~. **4-32-103. Adoption of federal provisions.**

7502 (1) The following federal laws, regulations, and standards are adopted by reference:

7503 (a) 9 C.F.R. Part 300 through Part 500 and Part 590;

7504 (b) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

7505 (c) the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; ~~[and]~~

7506 (d) the Humane Slaughter Act, 7 U.S.C. Sec. 1901 et seq~~[-]~~; and

7507 (e) the Egg Product Inspection Act, 21 U.S.C. 1031 et seq.

7508 (2) Changes to the federal laws, regulations, and standards referenced in Subsection (1)
7509 are considered incorporated as those changes are made.

7510 Section 323. Section **4-32-104**, which is renumbered from Section 4-32-2.2 is
7511 renumbered and amended to read:

7512 ~~[4-32-2.2]~~. **4-32-104. Emergency rules.**

7513 The department may make emergency rules concerning the meat and poultry inspection
7514 program only in accordance with Section [63G-3-304](#).

7515 Section 324. Section **4-32-105**, which is renumbered from Section 4-32-3 is
7516 renumbered and amended to read:

7517 ~~[4-32-3]~~. **4-32-105. Definitions.**

7518 As used in this chapter:

7519 (1) "Adulterated" means any meat or poultry product that:

7520 (a) bears or contains any poisonous or deleterious substance that may render it
7521 injurious to health, but, if the substance is not an added substance, the meat or poultry product
7522 is not considered adulterated under this subsection if the quantity of the substance in or on the
7523 meat or poultry product does not ordinarily render it injurious to health;

7524 (b) bears or contains, by reason of the administration of any substance to the animal or
7525 otherwise, any added poisonous or added deleterious substance that in the judgment of the
7526 commissioner makes the meat or poultry product unfit for human food;

7527 (c) contains, in whole or in part, a raw agricultural commodity and that commodity
7528 bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec.
7529 346a;

7530 (d) bears or contains any food additive that is unsafe within the meaning of 21 U.S.C.
7531 Sec. 348;

7532 (e) bears or contains any color additive that is unsafe within the meaning of 21 U.S.C.
7533 Sec. 379e[;], provided[;] that a meat or poultry product that is not otherwise considered
7534 adulterated under Subsection (1)(c) or (d) [~~of this section~~] is considered adulterated if use of
7535 the pesticide chemical, food additive, or color additive is prohibited in official establishments
7536 by federal law, regulation, or standard;

7537 (f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for
7538 any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

7539 (g) has been prepared, packaged, or held under unsanitary conditions if the meat or
7540 poultry product may have become contaminated with filth, or if it may have been rendered
7541 injurious to health;

7542 (h) is in whole or in part the product of an animal that died other than by slaughter;

7543 (i) is contained in a container that is composed, in whole or in part, of any poisonous or
7544 deleterious substance that may render the meat or poultry product injurious to health;

7545 (j) has been intentionally subjected to radiation, unless the use of the radiation
7546 conforms with a regulation or exemption in effect pursuant to 21 U.S.C. Sec. 348;

7547 (k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or
7548 if damage or inferiority is concealed in any manner; or if any substance has been added, mixed,
7549 or packed with the meat or poultry product to increase its bulk or weight, [~~or~~] reduce its quality
7550 or strength, or [~~to~~] make it appear better or of greater value; or

7551 (l) is margarine containing animal fat and any of the raw material used in the margarine
7552 consists in whole or in part of any filthy, putrid, or decomposed substance.

7553 (2) "Animal" means a domesticated or captive mammalian or avian species.

7554 (3) "Animal food manufacturer" means any person engaged in the business of
7555 preparing animal food derived from animal carcasses or parts or products of the carcasses.

7556 (4) "Ante mortem inspection" means an inspection of a live animal immediately before
7557 slaughter.

7558 (5) "Broker" means any person engaged in the business of buying and selling meat or
7559 poultry products other than for the person's own account.

7560 (6) "Capable of use as human food" means any animal carcass, or part or product of a

7561 carcass, unless it is denatured or otherwise identified as required by rules of the department to
7562 deter [its] the carcass or product's use as human food.

7563 (7) "Commissioner" includes a person authorized by the commissioner to carry out
7564 [~~this chapter's provisions.~~] the provisions of this chapter.

7565 (8) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle,
7566 wrapper, or cover.

7567 (9) "Custom exempt processing" means processing meat or wild game as a service for
7568 the person who owns the meat or wild game and uses the meat and meat food products for the
7569 person's own consumption, including consumption by immediate family members and
7570 non-paying guests.

7571 (10) "Custom exempt slaughter":

7572 (a) means slaughtering an animal as a service for the person who owns the animal and
7573 uses the meat and meat products for the person's own consumption, including consumption by
7574 immediate family members and non-paying guests; and

7575 (b) includes farm custom slaughter.

7576 (11) "Diseased animal":

7577 (a) means an animal that:

7578 (i) is diagnosed with a disease not known to be cured; or

7579 (ii) has exhibited signs or symptoms of a disease that is not known to be cured; and

7580 (b) does not include an otherwise healthy animal that suffers only from injuries such as
7581 fractures, cuts, or bruises.

7582 (12) "Farm custom mobile unit" means a portable slaughter vehicle or trailer that is
7583 used by a farm custom slaughter licensee to slaughter animals.

7584 (13) "Farm custom slaughter" means custom exempt slaughtering of an animal for an
7585 owner without official inspection.

7586 (14) "Farm custom slaughter license" means a license issued by the department to
7587 allow farm custom slaughter.

7588 (15) "Farm custom slaughter NOT FOR SALE tag" means a tag issued by the
7589 department to the owner of the facility before the animal is slaughtered that specifies the
7590 animal's identification and certifies its ownership[~~, which is issued by the department through a~~
7591 ~~brand inspector to the owner of the animal before it is slaughtered.~~].

- 7592 (16) "Federal acts" means:
- 7593 (a) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;
- 7594 (b) the Federal Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; ~~and~~
- 7595 (c) the Humane Slaughter Act, 7 U.S.C. 1901 et seq~~[-]; and~~
- 7596 (d) the Egg Product Inspection Act, 21 U.S.C. 1031 et seq.
- 7597 (17) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved June
- 7598 25, 1938 (52 Stat. 1040) (21 U.S.C. 301 et seq.), and any amendments to ~~it~~ the act.
- 7599 (18) "Immediate container" means any consumer package, or any other container, in
- 7600 which meat or poultry products not consumer packaged~~[-]~~ are packed.
- 7601 (19) "Inspector" means a ~~[licensed veterinarian or competent lay person working under~~
- 7602 ~~the supervision of a licensed graduate veterinarian.]~~ department employee who is trained in:
- 7603 (a) humane handling;
- 7604 (b) ante-mortem and post-mortem inspection;
- 7605 (c) processing inspection; and
- 7606 (d) regulatory requirements.
- 7607 (20) "Label" means a display of printed or graphic matter upon any meat or poultry
- 7608 product or the immediate container, not including package liners, of any such product.
- 7609 (21) "Labeling" means all labels and other printed or graphic matter:
- 7610 (a) upon any meat or poultry product or any of its containers or wrappers; or
- 7611 (b) accompanying a meat or poultry product.
- 7612 (22) "Licensee" means a person who holds a valid farm custom slaughter license.
- 7613 (23) "Meat" means the edible muscle, and other edible parts, of an animal, including
- 7614 edible:
- 7615 (a) skeletal muscle;
- 7616 (b) organs;
- 7617 (c) muscle found in the tongue, diaphragm, heart, or esophagus; and
- 7618 (d) fat, bone, skin, sinew, nerve, or blood vessel that normally accompanies meat and is
- 7619 not ordinarily removed in processing.
- 7620 (24) "Meat establishment" means a plant or fixed premises used to:
- 7621 (a) slaughter animals for human consumption; or
- 7622 (b) process meat or poultry products for human consumption.

7623 (25) "Meat product" means any product capable of use as human food that is made
7624 wholly or in part from any meat or other part of the carcass of any non-avian animal.

7625 (26) "Misbranded" means any meat or poultry product that:

7626 (a) bears a label that is false or misleading in any particular;

7627 (b) is offered for sale under the name of another food;

7628 (c) is an imitation of another food, unless the label bears, in type of uniform size and
7629 prominence, the word "imitation" followed by the name of the food imitated;

7630 (d) if ~~[its]~~ it has a container, the container is ~~[so]~~ made, formed, or filled as to be
7631 misleading;

7632 (e) does not bear a label showing:

7633 (i) the name and place of business of the manufacturer, packer, or distributor; and

7634 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or
7635 numerical count~~;~~₂ provided~~;~~ that under this Subsection (26)(e), exemptions as to meat and
7636 poultry products not in containers may be established by rules of the department and that under
7637 this Subsection (26)(e)(ii), reasonable variations may be permitted, and exemptions for small
7638 packages may be established for meat or poultry products by rule of the department;

7639 (f) does not bear any word, statement, or other information required by or under
7640 authority of this chapter to appear on the label or other labeling that is not prominently placed
7641 with such conspicuousness, as compared with other words, statements, designs, or devices, in
7642 the labeling, and in such terms as to render it likely to be read and understood by the ordinary
7643 individual under customary conditions of purchase and use;

7644 (g) is a food for which a definition and standard of identity or composition has been
7645 prescribed by rules of the department under Section ~~[4-32-7]~~ 4-32-109 if the food does not
7646 conform to the definition and standard and the label does not bear the name of the food and any
7647 other information that is required by the rule;

7648 (h) is a food for which a standard of fill has been prescribed by rule of the department
7649 for the container and the actual fill of the container falls below that prescribed unless ~~[its]~~ the
7650 food's label bears, in a manner and form as the rule specifies, a statement that ~~[it]~~ the food falls
7651 below the standard;

7652 (i) is a food for which no standard or definition of identity has been prescribed under
7653 Subsection (26)(g) unless ~~[its]~~ the label bears:

7654 (i) the common or usual name of the food, if there be any; and
7655 (ii) if [it] the food is fabricated from two or more ingredients, the common or usual
7656 name of each such ingredient[;], except that spices, flavorings, and colorings may, when
7657 authorized by the department, be designated as spices, flavorings, and colorings without
7658 naming each[;], provided[;] that to the extent that compliance with the requirements of this
7659 Subsection (26)(i)(ii) is impracticable, or results in deception or unfair competition,
7660 exemptions shall be established by rule;

7661 (j) is a food that purports to be or is represented to be for special dietary uses, unless
7662 [its] the label bears information concerning [its] the food's vitamin, mineral, and other dietary
7663 properties as the department, after consultation with the Secretary of Agriculture of the United
7664 States, prescribes by rules as necessary to inform purchasers as to [its] the food's value for
7665 special dietary uses;

7666 (k) bears or contains any artificial flavoring, artificial coloring, or chemical
7667 preservative, unless [it] the food bears labeling stating that fact[;], provided[;] that to the extent
7668 that compliance with the requirements of this subsection are impracticable, exemptions shall be
7669 prescribed by rules of the department; or

7670 (l) does not bear directly thereon and on [its] the food's containers, as the department
7671 may prescribe by rule, the official inspection legend and establishment number of the official
7672 establishment where the product was prepared, and, unrestricted by any of the foregoing, other
7673 information as the department may require by rule to assure that the meat or poultry product
7674 will not have false or misleading labeling and that the public will be informed of the manner of
7675 handling required to maintain [it] the meat or poultry product in a wholesome condition.

7676 (27) "Official certificate" means any certificate prescribed by rules of the department
7677 for issuance by an inspector or other person performing official functions under this chapter.

7678 (28) "Official device" means [any] a device prescribed or authorized by the
7679 commissioner for use in applying [any] an official mark.

7680 (29) "Official establishment" means [any] an establishment at which inspection of the
7681 slaughter of animals or the preparation of meat or poultry products is maintained under the
7682 authority of this chapter.

7683 (30) "Official inspection" means where domestic animals are slaughtered or
7684 preparations for slaughter are carried out under grant of inspection that is issued by the

7685 department.

7686 ~~[(30)]~~ (31) "Official inspection legend" means ~~[any]~~ a symbol prescribed by rules of
7687 the department showing that a meat or poultry product was inspected and passed in accordance
7688 with this chapter.

7689 ~~[(31)]~~ (32) "Official mark" means the official legend or ~~[any]~~ other symbol prescribed
7690 by rules of the department to identify the status of ~~[any]~~ an animal carcass or meat or poultry
7691 product under this chapter.

7692 ~~[(32)]~~ (33) "Pesticide chemical," "food additive," "color additive," and "raw
7693 agricultural commodity," have the same meanings for purposes of this chapter as ascribed to
7694 them in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

7695 ~~[(33)]~~ (34) "~~[Post mortem]~~ Postmortem inspection" means an inspection of a
7696 slaughtered food animal's carcass after slaughter.

7697 ~~[(34)]~~ (35) "Poultry" means any domesticated bird, whether living or dead.

7698 ~~[(35)]~~ (36) "Poultry product" means any product capable of use as human food that is
7699 made wholly or in part from any poultry carcass, excepting products that contain poultry
7700 ingredients in relatively small proportion or that historically have not been considered by
7701 consumers as products of the poultry food industry, and that are exempted from definition as a
7702 poultry product by the commissioner.

7703 ~~[(36)]~~ (37) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut
7704 up, or otherwise manufactured or processed.

7705 ~~[(37)]~~ (38) "Process" means to cut, grind, manufacture, compound, smoke, intermix, or
7706 prepare meat or poultry products.

7707 ~~[(38)]~~ (39) "Renderer" means any person engaged in the business of rendering animal
7708 carcasses, or parts or products of animal carcasses, except rendering conducted under
7709 inspection or exemption under this chapter.

7710 ~~[(39)]~~ (40) "Slaughter" means:

7711 (a) the killing of an animal in a humane manner including skinning or dressing; or

7712 (b) the process of performing any of the specified acts in preparing an animal for
7713 human consumption.

7714 ~~[(40)]~~ (41) "Wild game" means an animal, the products of which are food that is not
7715 classified as a domesticated food animal, captive game animal, or captive game bird, including

7716 the following when not domesticated:

- 7717 (a) deer;
- 7718 (b) elk;
- 7719 (c) antelope;
- 7720 (d) moose;
- 7721 (e) bison;
- 7722 (f) bear;
- 7723 (g) rabbit;
- 7724 (h) squirrel;
- 7725 (i) raccoon; and
- 7726 (j) birds.

7727 Section 325. Section ~~4-32-106~~, which is renumbered from Section 4-32-4 is
7728 renumbered and amended to read:

7729 ~~[4-32-4]~~. 4-32-106. **Meat establishment license -- Slaughtering livestock**
7730 **except in licensed meat establishment prohibited -- Exceptions -- Violation a**
7731 **misdemeanor.**

7732 (1) A person may not, except in a licensed meat establishment, slaughter animals for
7733 human consumption or assist other persons in the slaughter or processing of animals except as
7734 otherwise provided in Subsection (2), (3), or (4).

7735 (2) A person who raises an animal or an employee of that person may slaughter an
7736 animal without a farm custom slaughter license if:

- 7737 (a) slaughtering or processing animals is not prohibited by local ordinance;
- 7738 (b) any hide, viscera, blood, or other tissue is disposed of by removal to a rendering
7739 facility[;] or landfill[;] or by burial, as allowed by law;

7740 (c) the meat or poultry product derived from the slaughtered animal is consumed
7741 exclusively by the person or the person's immediate family, regular employees of the person, or
7742 nonpaying guests; and

7743 (d) the meat or poultry product is marked "Not For Sale."

7744 (3) Farm custom slaughter may be performed by a person who holds a valid farm
7745 custom slaughter license.

7746 (4) A retail establishment that processes meat or poultry products primarily for sale to

7747 individual consumers at the retail establishment is exempt from provisions requiring licensing
7748 of a meat establishment if:

7749 (a) the retail establishment is not engaged in slaughter operations;

7750 (b) the retail establishment sells the processed meat and poultry products only to
7751 individual consumers at the retail establishment[;] or to restaurants or institutions for use in
7752 meals served at those restaurants or institutions;

7753 (c) the retail establishment's sales of processed meat and poultry products to restaurants
7754 or institutions do not exceed the federal adjusted dollar limitation, or 25% by dollar volume of
7755 all meat sales from the retail establishment, whichever is less;

7756 (d) the retail establishment receives meat only from a meat establishment licensed
7757 under this chapter or inspected by the United States Department of Agriculture under 21 U.S.C.
7758 [Sections] Secs. 451 to 695;

7759 (e) the operator of the retail establishment does not sell[;] to any person other than an
7760 individual consumer[;] any meat or poultry product that is cured, smoked, seasoned, canned, or
7761 cooked at the retail establishment;

7762 (f) the retail establishment does not sell any meat or poultry product that is cured,
7763 smoked, seasoned, canned, or cooked at the retail establishment at a location other than the
7764 retail establishment; and

7765 (g) the operator of the retail establishment does not sell[;] to any person other than an
7766 individual consumer[;] any meat product made by combining meat from different animal
7767 species at the retail establishment.

7768 (5) Any person who violates this section, except as otherwise provided in Subsection
7769 (6), is guilty of a class C misdemeanor.

7770 (6) Any person who offers for sale or sells any uninspected meat or poultry product is
7771 guilty of a class B misdemeanor.

7772 Section 326. Section ~~4-32-107~~, which is renumbered from Section 4-32-5 is
7773 renumbered and amended to read:

7774 ~~[4-32-5]~~. **4-32-107. Meat establishment and farm custom slaughter licenses --**

7775 **Application -- Fees -- Expiration -- Renewal.**

7776 (1) A person may not operate a meat establishment in the state without a meat
7777 establishment license issued by the department.

7778 (2) (a) Application for a license to operate a meat establishment shall be made to the
7779 department upon a form prescribed and furnished by the department.

7780 (b) Upon receipt of a proper application, compliance with all applicable rules, and the
7781 payment of an annual license fee determined by the department according to Subsection [~~4-2-2~~
7782 4-2-103](2), the commissioner, if satisfied that the public convenience and necessity will be
7783 served, shall issue a license allowing the applicant to operate a meat establishment through
7784 December 31 of the year in which the license is issued, subject to suspension or revocation for
7785 cause.

7786 (c) A meat establishment license is annually renewable on or before December 31 of
7787 each year, upon the payment of an annual license renewal fee in an amount determined by the
7788 department according to Subsection [~~4-2-2~~ 4-2-103](2).

7789 (3) (a) Application for a farm custom slaughter license to engage in the business of
7790 slaughtering livestock shall be made to the department on a form prescribed and furnished by
7791 the department.

7792 (b) Upon receipt of a proper application, compliance with all applicable rules, and
7793 payment of a license fee in an amount determined by the department according to Subsection
7794 [~~4-2-2~~ 4-2-103](2), the commissioner shall issue a license allowing the applicant to engage in
7795 farm custom slaughtering.

7796 (c) A farm custom slaughter license is annually renewable on or before December 31 of
7797 each year, upon the payment of an annual renewal license fee in an amount determined by the
7798 department according to Subsection [~~4-2-2~~ 4-2-103](2).

7799 Section 327. Section ~~4-32-108~~, which is renumbered from Section 4-32-6 is
7800 renumbered and amended to read:

7801 [~~4-32-6~~]. **4-32-108. Duties of person who holds a farm custom slaughter**
7802 **license.**

7803 Each person who holds a farm custom slaughter license shall:

7804 (1) keep accurate records of each animal slaughtered, including:

7805 (a) the name, address, and telephone number of each person for whom the animal is
7806 slaughtered[;];

7807 (b) a full description of each animal slaughtered including age, brands, marks, or other
7808 identifying marks, proof of ownership, and the destination of the carcass for processing[;]; and

7809 (c) the date of slaughter;

7810 (2) require that each animal presented for slaughter bear a farm custom slaughter not
7811 for sale tag;

7812 (3) render the animal to be slaughtered insensible to pain by captive bolt, gunshot,
7813 electric shock, or other humane means before it is shackled, hoisted, thrown, cast, or cut; and

7814 (4) stamp and tag the carcass of any slaughtered animal "Not For Sale."

7815 Section 328. Section ~~4-32-109~~, which is renumbered from Section 4-32-7 is
7816 renumbered and amended to read:

7817 ~~[4-32-7]~~. **4-32-109. Mandatory functions, powers, and duties of department**
7818 **prescribed.**

7819 (1) The department shall make rules pursuant to Title 63G, Chapter 3, Utah
7820 Administrative Rulemaking Act, concerning the following functions, powers, and duties, in
7821 addition to those specified in Chapter 1, Short Title and General Provisions, for the
7822 administration and enforcement of this chapter[.].

7823 ~~[(1)]~~ (2) The department shall require antemortem and postmortem inspections,
7824 quarantine, segregation, and reinspections by inspectors appointed for those purposes with
7825 respect to the slaughter of animals and the preparation of meat and poultry products at official
7826 establishments, except as provided in Subsection ~~[4-32-8]~~ 4-32-110(13).

7827 ~~[(2)]~~ (3) The department shall require that:

7828 (a) animals be identified for inspection purposes;

7829 (b) meat or poultry products, or their containers be marked or labeled as:

7830 (i) "Utah Inspected and Passed" if, upon inspection, the products are found to be
7831 unadulterated; and

7832 (ii) "Utah Inspected and Condemned" if, upon inspection, the products are found to be
7833 adulterated; and

7834 (c) condemned animal carcasses or products, which otherwise would be used for
7835 human consumption, be destroyed under the supervision of an inspector.

7836 ~~[(3)]~~ (4) The department shall prohibit or limit meat products, poultry products, or
7837 other materials not prepared under inspection procedures provided in this chapter, from being
7838 brought into official establishments.

7839 ~~[(4)]~~ (5) The department shall require that labels and containers for meat and poultry

7840 products:

7841 (a) bear all information required by Section [~~4-32-13~~] [4-23-115](#) if the product leaves
7842 the official establishment; and

7843 (b) be approved before sale or transportation.

7844 [~~(5)~~] (6) For official establishments required to be inspected under Subsection [~~(+)~~] (2),
7845 the department shall:

7846 (a) prescribe sanitary standards;

7847 (b) require sanitary inspections; and

7848 (c) refuse to provide inspection service if the sanitary conditions allow adulteration of
7849 any meat or poultry product.

7850 [~~(6)~~] (7) (a) The department shall require that any person engaged in a business referred
7851 to in Subsection [~~(6)~~] (7)(b):

7852 (i) keep accurate records disclosing all pertinent business transactions;

7853 (ii) allow inspection of the business premises at reasonable times and examination of
7854 inventory, records, and facilities; and

7855 (iii) allow samples to be taken.

7856 (b) Subsection [~~(6)~~] (7)(a) applies to any person who:

7857 (i) slaughters animals;

7858 (ii) prepares, freezes, packages, labels, buys, sells, transports, or stores any meat or
7859 poultry products for human or animal consumption;

7860 (iii) renders animals; or

7861 (iv) buys, sells, or transports any dead, dying, disabled, or diseased animals, or parts of
7862 their carcasses that died by a method other than slaughter.

7863 [~~(7)~~] (8) (a) The department shall:

7864 (i) adopt by reference rules [~~and regulations~~] under federal acts with changes that the
7865 commissioner considers appropriate to make the rules [~~and regulations~~] applicable to
7866 operations and transactions subject to this chapter; and

7867 (ii) [~~promulgate~~] make any other rules considered necessary for the efficient execution
7868 of the provisions of this chapter, including rules of practice providing an opportunity for
7869 hearing in connection with the issuance of orders under Subsection [~~(5)~~] (6) or under
7870 Subsection [~~4-32-8~~] [4-32-110](#)(1), (2), or (3) and prescribing procedures for proceedings in

7871 these cases.

7872 (b) These procedures do not preclude requiring that a label or container be withheld
7873 from use, or inspection be refused under Subsections [~~(1) and (5)~~] (2) and (6), or Subsection
7874 [~~4-32-8~~] 4-32-110(3), pending issuance of a final order in the proceeding.

7875 [~~(8)~~] (9) (a) To prevent the inhumane slaughtering of animals, inspectors shall be
7876 appointed to examine and inspect methods of handling and slaughtering animals.

7877 (b) Inspection of slaughtering establishments may be refused or temporarily suspended
7878 if animals have been slaughtered or handled by any method not in accordance with the Humane
7879 Methods of Slaughter Act of 1978, Pub. L. No. 95-445.

7880 (c) Before slaughtering an animal in accordance with requirements of Kosher, Halal, or
7881 a religious faith's requirements that discourage stunning of the animal, the person slaughtering
7882 the animal shall file a written request with the commissioner.

7883 [~~(9)~~] (10) (a) The department shall require an animal showing symptoms of disease
7884 during antemortem inspection, performed by an inspector appointed for that purpose, to be set
7885 apart and slaughtered separately from other livestock and poultry.

7886 (b) When slaughtered, the carcasses of livestock and poultry are subject to careful
7887 examination and inspection in accordance with rules prescribed by the commissioner.

7888 Section 329. Section **4-32-110**, which is renumbered from Section 4-32-8 is
7889 renumbered and amended to read:

7890 [~~4-32-8~~]. **4-32-110. Discretionary functions, powers, and duties of**
7891 **commissioner prescribed.**

7892 The commissioner may:

7893 (1) remove inspectors from any official establishment that fails to:

7894 (a) destroy condemned products pursuant to Subsection [~~4-32-7(2)~~] 4-32-109(3); or

7895 (b) comply with any other of this chapter's requirements;

7896 (2) refuse to provide inspection for any official establishment for any cause specified in
7897 Section 401 of the Federal Meat Inspection Act or Section 18 of the federal Poultry Products
7898 Inspection Act;

7899 (3) withhold the use of labels and containers if the labeling is false or misleading or the
7900 containers are misleading in size or form;

7901 (4) prescribe the type size and style to be used for labeling:

- 7902 (a) information;
- 7903 (b) definitions; and
- 7904 (c) standards of identity, composition, or container fill;
- 7905 (5) prescribe conditions for the storage and handling of meat and poultry products by
- 7906 any person who sells, freezes, stores, or transports these products to prevent them from
- 7907 becoming adulterated or misbranded;
- 7908 (6) require that equines be slaughtered and prepared in official establishments separate
- 7909 from those where other animals are slaughtered or their products are prepared;
- 7910 (7) require that the following people register the name and address of each place of
- 7911 business and all trade names:
 - 7912 (a) broker;
 - 7913 (b) renderer;
 - 7914 (c) animal food manufacturer;
 - 7915 (d) wholesaler;
 - 7916 (e) public warehouseman of meat or poultry products; or
 - 7917 (f) anyone engaged in the business of buying, selling, or transporting any:
 - 7918 (i) dead, dying, disabled, or diseased animals; or
 - 7919 (ii) parts of animal carcasses that died other than by slaughter;
 - 7920 (8) make inspections of official establishments at night, as well as during the day, if
 - 7921 animals or meat and poultry products are slaughtered and prepared for commercial purposes in
 - 7922 those establishments at night;
 - 7923 (9) divide the state into inspection districts and designate killing days and partial
 - 7924 killing days for each official establishment;
 - 7925 (10) cooperate with the Secretary of Agriculture of the United States in the
 - 7926 administration of this chapter and accept federal assistance and use funds appropriated for the
 - 7927 administration of this chapter to pay the state's proportionate share of the cooperative program;
 - 7928 (11) recommend the names of officials and employees of the department to the
 - 7929 Secretary of Agriculture of the United States for appointment to the advisory committees
 - 7930 provided for in the federal acts;
 - 7931 (12) serve as the representative of the governor for consultation with the Secretary of
 - 7932 Agriculture under paragraph (c) of Section 301 of the Federal Meat Inspection Act and Section

7933 5(c) of the federal Poultry Products Inspection Act, unless the governor selects another
7934 representative; and

7935 (13) exempt from inspection:

7936 (a) the slaughter and processing of an animal by any person who raises an animal for
7937 the person's own use, members of the person's household, employees, or nonpaying guests;

7938 (b) custom exempt slaughter and processing operations;

7939 (c) farm custom slaughter performed by a licensee; and

7940 (d) any other operation, if the exemption:

7941 (i) furthers the purposes of this chapter; and

7942 (ii) conforms to federal acts.

7943 Section 330. Section ~~4-32-111~~, which is renumbered from Section 4-32-9 is
7944 renumbered and amended to read:

7945 ~~[4-32-9]~~. **4-32-111. Additional powers of commissioner.**

7946 (1) The commissioner may:

7947 (a) gather and compile information concerning, and~~[; to]~~ investigate the organization,
7948 business, conduct, practices, and management of, any person subject to this chapter;

7949 (b) require any person subject to this chapter to file information regarding the person's
7950 business or operation as the commissioner requires;

7951 (c) for the purpose of this chapter, at all reasonable times have access to, for the
7952 purpose of examination, and the right to copy, any documentary evidence~~[;]~~ of any person
7953 being investigated or proceeded against, and may require by subpoena the attendance and
7954 testimony of witnesses and the production of all documentary evidence of any person relating
7955 to any matter under investigation;

7956 (d) require the attendance of witnesses and the production of documentary evidence at
7957 any place designated for hearing; ~~[in case of disobedience to a subpoena, the commissioner~~
7958 ~~may]~~

7959 (e) invoke the aid of any court of competent jurisdiction to compel the attendance of
7960 witnesses and the production of documentary evidence, in the case of disobedience to a
7961 subpoena; and

7962 ~~[(e)]~~ (f) order testimony to be taken by deposition in any proceeding or investigation
7963 pending under this chapter at any stage of the proceeding or investigation~~[; the depositions may~~

7964 ~~be taken before any person with power to administer oaths designated by the commissioner,~~
7965 ~~and the testimony shall be reduced to writing by the person taking the deposition, or under his~~
7966 ~~direction and shall then be subscribed by the deponent].~~

7967 (2) In the event a witness asserts a privilege against self-incrimination, testimony and
7968 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of
7969 Immunity.

7970 (3) (a) (i) Any person who without just cause neglects or refuses to attend and testify or
7971 to answer any lawful inquiry, or to produce documentary evidence, if in [his] the person's
7972 power to do so, in obedience to the subpoena or lawful requirement of the commissioner is
7973 guilty of a class A misdemeanor. [~~Any~~]

7974 (ii) A fine imposed for a violation of Subsection (3)(a)(i) may not be less than \$500.
7975 [~~(b) Any person that~~]

7976 (b) (i) A person is guilty of a class A misdemeanor if the person:

7977 (A) willfully makes, or causes to be made, any false entry or statement of fact in any
7978 report required to be made under this chapter[~~, or that~~];

7979 (B) willfully makes, or causes to be made, any false entry in any account, record, or
7980 memorandum kept by any person subject to this chapter[~~, or that~~];

7981 (C) neglects or fails to make, or to cause to be made, full, true, and correct entries in
7982 those accounts, records, or memoranda, of all facts and transactions appertaining to the
7983 business of that person; or [~~that~~]

7984 (D) willfully removes out of the jurisdiction of this state, or willfully mutilates, alters,
7985 or by any other means falsifies any documentary evidence of any person subject to this chapter
7986 or that willfully refuses to submit to the commissioner or to any of the commissioner's
7987 authorized agents, for the purpose of inspection and making copies, any documentary evidence
7988 of any person subject to this chapter within the person's possession or control [~~is guilty of a~~
7989 ~~class A misdemeanor. Any~~].

7990 (ii) A fine imposed for a violation of Subsection (3)(b)(i) may not be less than \$500.

7991 (c) (i) If any person required by this chapter to file any annual or special report fails to
7992 do so within the time fixed by the commissioner, and the failure continues for 30 days after
7993 notice of default, the person shall forfeit to the state the sum of \$10 for each day of the
7994 continuance of the failure, which forfeiture is payable into the treasury of this state, and is

7995 recoverable in a civil suit in the name of the state brought in the district where the person has a
7996 principal office or in any district in which he does business.

7997 (ii) The various county attorneys, under the direction of the attorney general of this
7998 state, shall prosecute for the recovery of the forfeitures.

7999 (iii) The costs and expenses of prosecution shall be paid out of the appropriation for
8000 the expenses of the courts of this state.

8001 Section 331. Section ~~4-32-112~~, which is renumbered from Section 4-32-10 is
8002 renumbered and amended to read:

8003 ~~[4-32-10]~~. **4-32-112. Judicial review of orders enforcing chapter.**

8004 (1) Any party aggrieved by an order issued under Subsection ~~[4-32-7(3)]~~ 4-32-109(4)
8005 or under Subsection ~~[4-32-8]~~ 4-32-110(1), (2), or (3) may obtain judicial review.

8006 (2) The district courts have jurisdiction to enforce this chapter, and to prevent and
8007 restrain violations of this chapter, and have jurisdiction in all other kinds of cases arising under
8008 this chapter.

8009 (3) All proceedings for the enforcement of this chapter, or to restrain violations of this
8010 chapter, shall be by and in the name of this state.

8011 Section 332. Section ~~4-32-113~~, which is renumbered from Section 4-32-11 is
8012 renumbered and amended to read:

8013 ~~[4-32-11]~~. **4-32-113. Preparation and slaughter of livestock, poultry, or**
8014 **livestock and poultry products -- Adulterated or misbranded products -- Violation of rule**
8015 **or order.**

8016 (1) An animal or meat or poultry product that may be used for human consumption
8017 shall not be:

8018 (a) slaughtered or prepared unless it is done in compliance with this chapter's
8019 requirements;

8020 (b) sold, transported, offered for sale or transportation, or received for transportation, if
8021 it is adulterated or misbranded, unless it has been inspected and approved; or

8022 (c) subjected to any act while being transported or held for sale after transportation
8023 resulting in one of the products becoming adulterated or being misbranded.

8024 (2) A person may not violate any rule or order of the commissioner under Subsection
8025 ~~[4-32-7(3) or (6)]~~ 4-32-109(4) or (7), or Subsection ~~[4-32-8]~~ 4-32-110(3), (5), or (7).

8026 Section 333. Section **4-32-114**, which is renumbered from Section 4-32-12 is
8027 renumbered and amended to read:

8028 ~~[4-32-12]~~. **4-32-114. Unauthorized use or possession of official devices, labels,**
8029 **marks, or certificates -- False statements, misrepresentations, and trade secrets.**

8030 (1) A person may not cast, print, lithograph, or make any device or label containing or
8031 bearing any official mark or simulation of a mark, or any form or simulation of an official
8032 certificate, unless authorized by the commissioner.

8033 (2) A person may not:

8034 (a) forge any official device, mark, or certificate;

8035 (b) use any official device, mark, or certificate without the authorization of the
8036 commissioner;

8037 (c) alter, detach, deface, or destroy any official device, mark, or certificate;

8038 (d) fail to use, detach, deface, or destroy any official device, mark, or certificate as
8039 required by this chapter;

8040 (e) knowingly possess any of the following, if it bears any unauthorized, counterfeit,
8041 simulated, forged, or altered official mark:

8042 (i) an official device;

8043 (ii) a counterfeit, simulated, forged, or altered official certificate;

8044 (iii) a device;

8045 (iv) a label;

8046 (v) a carcass of any animal, including poultry; or

8047 (vi) a part or product of any animal, including poultry;

8048 (f) knowingly make any false statement in any shipper's certificate, or nonofficial or
8049 official certificate;

8050 (g) knowingly represent that any meat or poultry product has been inspected and
8051 approved, or exempted, under this chapter when, in fact, it has not; or

8052 (h) use to the person's advantage or reveal any information acquired under the authority
8053 of this chapter relating to any matter entitled to protection as a trade secret unless the
8054 information is:

8055 (i) revealed to an authorized government representative; or

8056 (ii) ordered by a court in a judicial proceeding.

8057 Section 334. Section **4-32-115**, which is renumbered from Section 4-32-13 is
8058 renumbered and amended to read:

8059 ~~[4-32-13]~~. **4-32-115. Meat or poultry products to be marked or labeled -- Meat**
8060 **or poultry products not intended for human food -- Dead, dying, disabled, or diseased**
8061 **animals.**

8062 (1) A person may not sell, transport, offer for sale or transportation, or receive for
8063 transportation, any animal carcasses or parts of such carcasses, or the meat or meat products,
8064 unless they are plainly and conspicuously marked or labeled or otherwise identified as required
8065 by rules adopted by the department to show the kinds of animals from which they were derived.

8066 (2) A person may not buy, sell, transport, or offer for sale or transportation, or receive
8067 for transportation any meat or poultry products that are not intended for human food unless
8068 they are denatured or otherwise identified as required by the rules of the department or are
8069 naturally inedible by humans.

8070 (3) A person engaged in the business of buying, selling, or transporting dead, dying,
8071 disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise
8072 than by slaughter, may not buy, sell, transport, offer for sale or transportation, or receive for
8073 transportation the animals or parts of carcasses unless the transaction or transportation is made
8074 in accordance with rules adopted by the department to assure that the animals or parts of
8075 carcasses will be prevented from being used for human food.

8076 Section 335. Section **4-32-116**, which is renumbered from Section 4-32-14 is
8077 renumbered and amended to read:

8078 ~~[4-32-14]~~. **4-32-116. Attempt to bribe state officer or employee -- Acceptance**
8079 **of bribe -- Interference with official duties -- Penalties.**

8080 (1) (a) ~~[Any]~~ A person who gives, pays, or offers, directly or indirectly, any money or
8081 other thing of value, to any officer or employee of this state who is authorized to perform any
8082 duties under this chapter, with the intent to influence the officer or employee in the discharge
8083 of ~~[his]~~ the officer's or employee's duty, is guilty of a felony of the third degree, and upon
8084 conviction, shall be punished by a fine of not more than \$5,000 or imprisonment of not more
8085 than five years, or both.

8086 (b) An officer or employee of this state authorized to perform duties under this chapter
8087 who accepts money, a gift, or other thing of value from any person given with intent to

8088 influence ~~[his]~~ the officer's or employee's official action, is guilty of a felony of the third degree
8089 and shall, upon conviction, be discharged from office, and fined in an amount of not more than
8090 \$5,000, or imprisoned for not more than five years, or both.

8091 (2) (a) ~~[Any]~~ A person who assaults, obstructs, impedes, intimidates, or interferes with
8092 any person engaged in the performance of official duties under this chapter, with or without a
8093 dangerous or deadly weapon, is guilty of a felony of the third degree and upon conviction shall
8094 be punished by a fine of not more than \$5,000, or by imprisonment of not more than five years,
8095 or both.

8096 (b) ~~[Any]~~ A person who, in the commission of any violation of Subsection (2) of this
8097 section, uses a dangerous weapon as defined in Section [76-1-601](#), is guilty of a felony of the
8098 second degree and upon conviction shall be punished by a fine of not more than \$10,000, or by
8099 imprisonment for a period of not more than 10 years, or both.

8100 (c) ~~[Any]~~ A person who kills another person engaged in the performance of official
8101 duties under this chapter shall be punished as provided in Section [76-5-202](#).

8102 Section 336. Section ~~4-32-117~~, which is renumbered from Section 4-32-15 is
8103 renumbered and amended to read:

8104 ~~[4-32-15]~~. 4-32-117. Inspection of products placed in containers -- Supervision
8105 of inspector -- Access to establishment.

8106 (1) ~~[No]~~ An inspection of products placed in any container at any official establishment
8107 ~~[shall be deemed]~~ may not be considered to be complete until the products are sealed or
8108 enclosed under the supervision of an inspector.

8109 (2) For purposes of any inspection of products required by this chapter, inspectors
8110 authorized by the department shall have access at all times to every part of every establishment
8111 required to have inspection whether the establishment is operated or not.

8112 Section 337. Section ~~4-32-118~~, which is renumbered from Section 4-32-16 is
8113 renumbered and amended to read:

8114 ~~[4-32-16]~~. 4-32-118. Detention of animals or meat or poultry products --
8115 Removal of official marks.

8116 (1) Whenever any meat or poultry product or any product exempted from the definition
8117 of a meat or poultry product, or any dead, dying, disabled, or diseased animal, is found by any
8118 authorized representative of the commissioner, and there is reason to believe that it is

8119 adulterated or misbranded and is capable of use as human food, or that it has not been
8120 inspected and passed, or that it has been or is intended to be distributed in violation of this
8121 chapter, it may be detained by the representative pending action under Section [~~4-32-17~~]
8122 4-32-119, and may not be moved by any person from the place at which it is located when so
8123 detained, until released by such representative.

8124 (2) All official marks may be required by the representative described in Subsection (1)
8125 to be removed from a product or animal described in Subsection (1) before the product is
8126 released.

8127 Section 338. Section ~~4-32-119~~, which is renumbered from Section 4-32-17 is
8128 renumbered and amended to read:

8129 [~~4-32-17~~]. 4-32-119. Quarantine authorized -- Conditions giving rise to
8130 quarantine.

8131 (1) [~~Any~~] A meat or poultry product, or [~~any~~] a dead, dying, disabled, or diseased
8132 animal that is being transported or is held for sale in this state, [~~and that~~] shall be seized and
8133 quarantined if it:

8134 (a) is or has been prepared, sold, transported, or otherwise distributed or offered or
8135 received for distribution in violation of this chapter;

8136 (b) is capable of use as human food and is adulterated or misbranded; or

8137 (c) in any other way violates this chapter[~~, shall be seized and quarantined~~].

8138 (2) Quarantined animals or products shall be condemned and destroyed, except that the
8139 owner of the quarantined animals or products may request a hearing within five days, and the
8140 commissioner shall, within five days after the request, conduct a hearing to decide whether the
8141 quarantined animals or products shall be condemned.

8142 (3) The commissioner's decision under Subsection (2) is final, and all condemned
8143 animals or products shall [~~forthwith~~] immediately be destroyed or denatured in the presence of
8144 the commissioner or an inspector.

8145 (4) This section does not limit the authority for condemnation or seizure conferred by
8146 other provisions of this chapter, or other laws.

8147 Section 339. Section ~~4-32-120~~, which is renumbered from Section 4-32-18 is
8148 renumbered and amended to read:

8149 [~~4-32-18~~]. 4-32-120. Rules for the construction and operation of meat

8150 **establishments authorized.**

8151 (1) For the purposes of administering this chapter and qualifying meat establishments
8152 for licenses, the department may adopt sanitary inspection rules and regulations, [~~and all other~~
8153 ~~necessary rules,~~] including those pertaining to the construction, equipment, and facilities of
8154 meat establishments.

8155 (2) The rules shall conform with the regulations [~~promulgated~~] made under the federal
8156 acts.

8157 Section 340. Section **4-32-121**, which is renumbered from Section 4-32-20 is
8158 renumbered and amended to read:

8159 ~~[4-32-20].~~ **4-32-121. Suspension or revocation -- Grounds.**

8160 The department may upon its own motion, and shall upon the verified complaint in
8161 writing of any person, investigate or cause to be investigated the operation of any meat
8162 establishment, and may suspend or revoke the license of the meat establishment upon any of
8163 the following grounds:

8164 (1) the license was obtained by any false or misleading statement;

8165 (2) for slaughtering any animal without an antemortem and a postmortem inspection,
8166 or for processing any meat or poultry or products of [~~either~~] meat or poultry that have not been
8167 inspected and passed, [~~(c) or exempted(c)~~], and so identified;

8168 (3) the advertising or publicizing of any false or misleading statements that pertain to
8169 the slaughtering, processing, or distribution of animals or meat or poultry products;

8170 (4) the failure to maintain refrigeration[;] or sanitation, or dispose of waste as required
8171 by rules of the department; or

8172 (5) the failure to comply with rules of the department pertaining to the disposal of
8173 carcasses or parts of carcasses that have been determined to be unfit for human consumption.

8174 Section 341. Section **4-32-122**, which is renumbered from Section 4-32-21 is
8175 renumbered and amended to read:

8176 ~~[4-32-21].~~ **4-32-122. Denial of application for farm custom slaughter license --**
8177 **Venue for judicial review.**

8178 (1) [~~Any~~] An applicant whose application for a license to operate a meat establishment
8179 or to obtain a farm custom slaughter license is denied may file a request for agency action with
8180 the department, requesting a hearing on the issue of denial.

8181 (2) (a) [~~Any~~] A person who is aggrieved by an order issued under this section may
8182 obtain judicial review.

8183 (b) Venue for judicial review of an informal adjudicative proceeding is in the district
8184 court in the county in which the alleged unlawful activity occurred or, in the case of an order
8185 denying a license application, in the county where the applicant resides.

8186 (3) The attorney general's office shall represent the department in [~~any~~] an original
8187 action or [~~any~~] appeal under this section.

8188 Section 342. Section ~~4-32-123~~, which is renumbered from Section 4-32-22 is
8189 renumbered and amended to read:

8190 ~~[4-32-22]~~. **4-32-123. Animals slaughtered or the meat and poultry products**
8191 **not intended for human use -- No inspection -- Products to be denatured or otherwise**
8192 **identified.**

8193 Inspection may not be provided under this chapter at any establishment for the slaughter
8194 of animals or the preparation of any meat or poultry products that are not intended for use as
8195 human food, but the products shall be denatured or otherwise identified as prescribed by rules
8196 of the department before [~~their offer~~] the meat and poultry products are offered for sale or
8197 transportation.

8198 Section 343. Section ~~4-33-101~~, which is renumbered from Section 4-33-1 is
8199 renumbered and amended to read:

8200 **CHAPTER 33. MOTOR FUEL INSPECTION ACT**

8201 ~~[4-33-1]~~. **4-33-101. Title.**

8202 This chapter shall be known as the "Motor Fuel Inspection Act."

8203 Section 344. Section ~~4-33-102~~, which is renumbered from Section 4-33-2 is
8204 renumbered and amended to read:

8205 ~~[4-33-2]~~. **4-33-102. Purpose of chapter.**

8206 It is the purpose of this chapter to promote the safety and welfare of users of motor
8207 fuels in this state and also to promote the orderly marketing of motor fuels.

8208 Section 345. Section ~~4-33-103~~, which is renumbered from Section 4-33-3 is
8209 renumbered and amended to read:

8210 ~~[4-33-3]~~. **4-33-103. Definition.**

8211 As used in this chapter, "motor fuel" means any combustible [~~gas, liquid, matter, or~~

8212 ~~substance which is used in an internal combustion engine for the generation of power]~~ liquid or
 8213 vapor used to power a motor vehicle or a motor vehicle engine.

8214 Section 346. Section ~~4-33-104~~, which is renumbered from Section 4-33-4 is
 8215 renumbered and amended to read:

8216 ~~[4-33-4].~~ **4-33-104. Administrative and enforcement powers of department.**

8217 The department shall administer and enforce this chapter and may:

8218 (1) make and enforce such rules, subject to Title 63G, Chapter 3, Utah Administrative
 8219 Rulemaking Act, ~~[as it considers]~~ necessary for the effective administration and enforcement of
 8220 this chapter;

8221 (2) acquire and test motor fuel samples to determine compliance with this chapter;

8222 (3) maintain and staff a laboratory to test motor fuel samples;

8223 (4) enter public or private premises during normal working hours to enforce this
 8224 chapter;

8225 (5) stop and detain any commercial vehicle transporting motor fuel to inspect ~~[its]~~ the
 8226 contents and applicable documents or to acquire motor fuel samples; and

8227 (6) require that records applicable to this chapter be available for examination and
 8228 review upon request by the department.

8229 Section 347. Section ~~4-33-105~~, which is renumbered from Section 4-33-5 is
 8230 renumbered and amended to read:

8231 ~~[4-33-5].~~ **4-33-105. Prohibitions.**

8232 It is unlawful for any person in this state to:

8233 (1) ~~[to]~~ offer for sale, sell, or deliver any motor fuel which fails to meet the standards
 8234 prescribed by the department;

8235 (2) ~~[to]~~ advertise or display the price of motor fuel without advertising or displaying
 8236 the grade of the motor fuel and the type of service ~~[when both self service and full service are~~
 8237 ~~offered];~~ or

8238 (3) ~~[to]~~ haul or transport motor fuel for the purpose of sale or delivery in this state
 8239 without an invoice or bill of lading stating the name and address of the owner or person
 8240 consigning the fuel for transport, the Utah grade of the motor fuel, and the number of gallons
 8241 consigned.

8242 Section 348. Section ~~4-33-106~~, which is renumbered from Section 4-33-6 is

8243 renumbered and amended to read:

8244 ~~[4-33-6]~~. **4-33-106. Octane rating determination and posting.**

8245 The determination of octane ratings and the posting of the octane on dispensing devices
8246 shall be in accord with Federal Trade Commission requirements described in 16 C.F.R. Part
8247 306, Automotive Fuel Ratings, Certification, and Posting.

8248 Section 349. Section **4-33-107**, which is renumbered from Section 4-33-7 is
8249 renumbered and amended to read:

8250 ~~[4-33-7]~~. **4-33-107. Inspection, sampling, testing, and analysis of fuels by**
8251 **department.**

8252 (1) The department shall periodically sample, inspect, analyze and test motor fuels
8253 dispensed in this state and may enter any public premises or vehicle for the purpose of
8254 determining compliance with this chapter.

8255 (2) (a) Methods of sampling, testing, analyzing, and designating motor fuels shall
8256 ~~[accord with those]~~ conform with methods specified and published by the American Society for
8257 Testing and Materials.

8258 (b) ~~[The department shall use]~~ Unless modified by the department by rule, the latest
8259 published standards of the American Society for Testing and Materials apply.

8260 (3) Upon request, the department shall pay the posted price for samples and the person
8261 from whom the sample is taken shall give a signed receipt evidencing payment.

8262 (4) Tests and analyses conducted by the department shall be prima facie evidence of
8263 the facts shown by such tests in any court proceeding.

8264 Section 350. Section **4-33-108**, which is renumbered from Section 4-33-8 is
8265 renumbered and amended to read:

8266 ~~[4-33-8]~~. **4-33-108. Locking and sealing of pumps in violation of chapter --**
8267 **Posting notice -- Removal of sealed fuel -- Resealing.**

8268 (1) (a) The department may lock and seal any pump or other dispensing device ~~[which]~~
8269 that is in violation of this chapter.

8270 (b) If ~~[such action is taken]~~ the department locks and seals a pump or other dispensing
8271 device pursuant to Subsection (1)(a), the department shall post a notice in a conspicuous place
8272 on the pump or other dispensing device stating that the device has been sealed by the
8273 department and ~~[that it is unlawful]~~ to break or destroy the seal or to mutilate or alter the notice

8274 is unlawful.

8275 (2) (a) Any person who is aggrieved by the action of the department may advise the
8276 department that such person intends to remove the balance of the motor fuel from the tank or
8277 other container which contains the sealed motor fuel.

8278 (b) The department, within two working days after the receipt of such notice, shall
8279 break the seal or lock for the container to be emptied.

8280 (3) (a) If the aggrieved party fails to remove the sealed motor fuel within 24 hours after
8281 the department breaks the seal, the department may reseal the dispensing device.

8282 (b) The seal may not be broken nor the contents of any container removed, except after
8283 a subsequent written notice of intent to remove is filed with the department and upon the
8284 payment of a service charge determined by the department pursuant to Subsection [4-2-2]
8285 [4-2-103](#)(2).

8286 (c) A notice of intent to remove may be filed on paper or electronically.

8287 Section 351. Section **4-33-109**, which is renumbered from Section 4-33-9 is
8288 renumbered and amended to read:

8289 ~~[4-33-9].~~ **4-33-109. Warrant to enter premises for inspection or sampling.**

8290 If admittance is refused to the department either for sampling or for inspection of
8291 transport invoices or bills of lading, the department may obtain an ex parte warrant from the
8292 nearest court of competent jurisdiction to allow entry upon the premises for the purpose of
8293 inspection or taking samples or to examine transport documents.

8294 Section 352. Section **4-33-110**, which is renumbered from Section 4-33-10 is
8295 renumbered and amended to read:

8296 ~~[4-33-10].~~ **4-33-110. Interstate commerce -- Chapter inapplicable to fuel in**
8297 **transit through state.**

8298 [This] (1) Except as provided in Subsection (2), this chapter is inapplicable to motor
8299 fuel being transported through this state in interstate commerce~~;~~ ~~provided, that none of the~~
8300 ~~motor fuel is consigned or destined for delivery in the state].~~

8301 (2) This chapter applies to motor fuel that is consigned or destined for delivery in the
8302 state.

8303 Section 353. Section **4-34-101** is enacted to read:

8304 **CHAPTER 34. CHARITABLE DONATION**

8305 **4-34-101. Title.**

8306 This chapter is known as "Charitable Donation."

8307 Section 354. Section **4-34-102**, which is renumbered from Section 4-34-1 is
8308 renumbered and amended to read:

8309 **~~[4-34-1].~~ 4-34-102. Definitions.**

8310 For purposes of this chapter:

8311 (1) "Agricultural product" means any fowl, animal, fish, vegetable, or other product or
8312 article, fresh or processed, which is customary food, or which is proper food for human
8313 consumption.

8314 ~~[(3)]~~ (2) "Gleaner" means a person who harvests, for free distribution, an agricultural
8315 crop that has been donated by the owner.

8316 ~~[(2)]~~ (3) "Nonprofit charitable organization" means any organization which was
8317 organized and is operating for charitable purposes and which meets the requirements of the
8318 Internal Revenue Service of the U.S. Department of Treasury that exempt the organization
8319 from income taxation under the provisions of the Internal Revenue Code.

8320 Section 355. Section **4-34-103**, which is renumbered from Section 4-34-2 is
8321 renumbered and amended to read:

8322 **~~[4-34-2].~~ 4-34-103. Donation to charitable organization authorized.**

8323 Any person engaged in the business of producing, processing, selling, or distributing
8324 any agricultural product may donate, free of charge, any such product which is in a fit condition
8325 for use as food for human consumption to a nonprofit charitable organization within the state
8326 of Utah.

8327 Section 356. Section **4-34-104**, which is renumbered from Section 4-34-3 is
8328 renumbered and amended to read:

8329 **~~[4-34-3].~~ 4-34-104. County surplus food collection and distribution system.**

8330 (1) To accomplish the purposes of Section ~~[4-34-2]~~ 4-34-103, any county may establish
8331 and publicize the availability of a surplus food collection and distribution system and may
8332 provide information to donee organizations concerning the availability of agricultural products
8333 and to donors concerning organizations that desire or need donated agricultural products.

8334 (2) Any nonprofit charitable organization needing agricultural products on a regular
8335 basis may be listed with the county for the purpose of receiving notice that the products are

8336 available.

8337 Section 357. Section **4-34-105**, which is renumbered from Section 4-34-4 is
8338 renumbered and amended to read:

8339 ~~[4-34-4]~~. **4-34-105. Inspection of donated food.**

8340 The county may provide for the inspection of donated agricultural products by the
8341 county health officer upon the request of the donee nonprofit charitable organization to
8342 determine whether the products are fit for human consumption.

8343 Section 358. Section **4-34-106**, which is renumbered from Section 4-34-5 is
8344 renumbered and amended to read:

8345 ~~[4-34-5]~~. **4-34-106. Limitation of liability of donor, charitable organization,**
8346 **and county.**

8347 Except in the event of an injury resulting from gross negligence, recklessness, or
8348 intentional conduct, neither a county nor an agency of a county nor a donor of an agricultural
8349 product participating in good faith in a food donation program, nor a nonprofit charitable
8350 organization receiving, accepting, gleaning, or distributing any agricultural product donated in
8351 good faith to it under this chapter shall be liable for damages in any civil action or subject to
8352 prosecution in any criminal proceeding for any injury that occurs as a result of any act or the
8353 omission of any act, including injury resulting from ingesting the donated agricultural product.

8354 Section 359. Section **4-34-107**, which is renumbered from Section 4-34-6 is
8355 renumbered and amended to read:

8356 ~~[4-34-6]~~. **4-34-107. Sale or use of donations by employee of public agency or**
8357 **charity prohibited.**

8358 An employee of a nonprofit charitable organization or of a public agency may not sell,
8359 offer for sale, use, or consume any agricultural product donated or distributed under this
8360 chapter.

8361 Section 360. Section **4-35-101**, which is renumbered from Section 4-35-1 is
8362 renumbered and amended to read:

8363 **CHAPTER 35. INSECT INFESTATION EMERGENCY CONTROL ACT**

8364 ~~[4-35-1]~~. **4-35-101. Title.**

8365 This chapter is known as the "Insect Infestation Emergency Control Act."

8366 Section 361. Section **4-35-102**, which is renumbered from Section 4-35-2 is

8367 renumbered and amended to read:

8368 ~~[4-35-2]~~. **4-35-102. Definitions.**

8369 As used in this chapter:

8370 (1) "Committee" means the Decision and Action Committee created by and established
8371 under this chapter.

8372 (2) "Department" means the Department of Agriculture and Food.

8373 (3) "Insect" means~~[, but is not limited to, grasshopper, range caterpillar, mormon~~
8374 ~~cricket, apple maggot, cherry fruit fly, plum curculio, and cereal leaf beetle]~~ any animal in the
8375 class insect that the commissioner determines to be a threat to agriculture in the state.

8376 Section 362. Section **4-35-103**, which is renumbered from Section 4-35-3 is
8377 renumbered and amended to read:

8378 ~~[4-35-3]~~. **4-35-103. Decision and Action Committee created -- Members --**
8379 **How appointed -- Duties of committee -- Per diem and expenses allowed.**

8380 (1) (a) There is created the Decision and Action Committee ~~[which]~~ that consists of not
8381 fewer than six members.

8382 (b) One member is the commissioner and one member is appointed to represent the
8383 department.

8384 (c) The remaining members of the committee are appointed by the commissioner on an
8385 ad hoc basis as necessary from persons directly affected by and involved in the current insect
8386 infestation emergency.

8387 (d) The commissioner, or the commissioner's designee, shall cast the deciding vote in
8388 the event of a tie.

8389 ~~[(d)]~~ (e) The committee is dissolved when the commissioner declares that the insect
8390 infestation emergency is over.

8391 (2) The committee shall:

8392 (a) establish a system of priorities for any insect infestation emergency; and

8393 (b) certify to the commissioner any area which requires the establishment of an insect
8394 control district in areas of infestation and in which a simple majority of the landowners and
8395 lessees whose total production exceeds 50% of the production in that area has agreed to pay
8396 proportionate shares of the costs of controlling the insects infesting the area.

8397 (3) A member may not receive compensation or benefits for the member's service, but

8398 may receive per diem and travel expenses in accordance with:

8399 (a) Section [63A-3-106](#);

8400 (b) Section [63A-3-107](#); and

8401 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

8402 [63A-3-107](#).

8403 Section 363. Section **4-35-104**, which is renumbered from Section 4-35-4 is

8404 renumbered and amended to read:

8405 ~~[4-35-4]~~. **4-35-104. Commissioner to declare emergency -- Powers of**

8406 **commissioner in emergency.**

8407 (1) (a) The commissioner, with the consent of the governor, may declare that an insect
8408 infestation emergency situation exists which jeopardizes property and resources, and designate
8409 the area or areas affected.

8410 (b) The area referred to in Subsection (1)(a) may include federal lands, after
8411 notification of the appropriate federal land manager.

8412 (2) The commissioner is authorized, subject to the requirements of Section [~~4-35-5~~]
8413 [4-35-105](#), to direct all emergency measures the commission considers necessary to alleviate the
8414 emergency condition.

8415 (3) The commissioner shall:

8416 (a) utilize equipment, supplies, facilities, personnel, and other available resources;

8417 (b) enter into contracts for the acquisition, rental, or hire of equipment, services,
8418 materials, and supplies;

8419 (c) accept assistance, services, and facilities offered by federal and local governmental
8420 units or private agencies; and

8421 (d) accept on behalf of the state the provisions and benefits of acts of Congress
8422 designated to provide assistance.

8423 Section 364. Section **4-35-105**, which is renumbered from Section 4-35-5 is

8424 renumbered and amended to read:

8425 ~~[4-35-5]~~. **4-35-105. Commissioner to act upon certification by committee --**

8426 **Deposit required.**

8427 (1) The commissioner initiates operations to control the insect infestation in the
8428 designated area or areas:

8429 (a) upon [~~certification by the committee under Subsection 4-35-4(2)] declaration of an
 8430 infestation emergency, as described in Section 4-35-104; and~~

8431 (b) upon deposit of the owner's and lessee's projected proportionate share of the costs.

8432 (2) The commissioner and the members of the committee may suspend or terminate
 8433 control operations upon a determination that the operations will not significantly reduce the
 8434 insect population in the designated emergency area.

8435 Section 365. Section **4-35-106**, which is renumbered from Section 4-35-6 is
 8436 renumbered and amended to read:

8437 ~~[4-35-6].~~ **4-35-106. 4-35-6. Money deposited as dedicated credits --**
 8438 **Balance nonlapsing -- Matching funds allowed.**

8439 (1) All money received by the state under this chapter is deposited by the Department
 8440 of Agriculture and Food as dedicated credits for the purpose of insect control with the state.

8441 (2) The dedicated credits may be used as matching funds for:

8442 (a) participation in programs of the United States Department of Agriculture; and

8443 (b) in contracts with private property owners who own croplands contiguous to infested
 8444 public rangelands.

8445 Section 366. Section **4-35-107**, which is renumbered from Section 4-35-7 is
 8446 renumbered and amended to read:

8447 ~~[4-35-7].~~ **4-35-107. Notice to owner or occupant -- Corrective action required**
 8448 **-- Directive issued by department -- Costs -- Owner or occupant may prohibit treatment.**

8449 (1) The department or an authorized agent of the department shall notify the owner or
 8450 occupant of the problem and the available alternatives to remedy the problem. The owner or
 8451 occupant shall take corrective action within 30 days.

8452 (2) (a) If the owner or occupant fails to take corrective action under Subsection (1), the
 8453 department may issue a directive for corrective action which shall be taken within 15 days.

8454 (b) If the owner or occupant fails to act within the required time, the department shall
 8455 take the necessary action.

8456 (c) The department may recover costs incurred for controlling an insect infestation
 8457 emergency from the owner or occupant of the property on whose property corrective action was
 8458 taken.

8459 (3) (a) Owners or occupants of property may prohibit [~~spraying~~] treatment by

8460 presenting an affidavit from ~~[their]~~ the owner's or occupant's attending physician to the
 8461 department which states that the ~~[spraying]~~ treatment as planned is a danger to ~~[their]~~ the
 8462 owner's or occupant's health.

8463 (b) The department shall provide the owner or occupant with alternatives to ~~[spraying]~~
 8464 treatment which will abate the infestation.

8465 Section 367. Section ~~4-35-108~~, which is renumbered from Section 4-35-8 is
 8466 renumbered and amended to read:

8467 ~~[4-35-8]~~. **4-35-108. Persons and activities exempt from civil liability.**

8468 No state agency or ~~[its]~~ state agency officers and employees nor the officers, agents,
 8469 employees, or representatives of any governmental or private entity acting under the authority
 8470 granted by this chapter is liable for claims arising out of the reasonable exercise or performance
 8471 of duties and responsibilities under this chapter.

8472 Section 368. Section ~~4-35-109~~, which is renumbered from Section 4-35-9 is
 8473 renumbered and amended to read:

8474 ~~[4-35-9]~~. **4-35-109. Department to adopt rules.**

8475 The department is authorized to adopt and enforce rules to administer this chapter in
 8476 accordance with Title 63 G, Chapter 3, Utah Administrative Rulemaking Act.

8477 Section 369. Section ~~4-38-101~~, which is renumbered from Section 4-38-1 is
 8478 renumbered and amended to read:

8479 **CHAPTER 38. UTAH HORSE REGULATION ACT**

8480 ~~[4-38-1]~~. **4-38-101. Title.**

8481 This chapter ~~[shall be]~~ is known as the "Utah Horse Regulation Act."

8482 Section 370. Section ~~4-38-102~~, which is renumbered from Section 4-38-2 is
 8483 renumbered and amended to read:

8484 ~~[4-38-2]~~. **4-38-102. Definitions.**

8485 As used in this chapter:

8486 (1) "Commission" means the Utah Horse Racing Commission created by this chapter.

8487 (2) "Executive director" means the executive director of the commission.

8488 (3) "Mixed meet" means a race meet that includes races by more than one breed of
 8489 horse.

8490 (4) "Race meet" means the entire period of time for which a licensee has been

8491 approved by the commission to hold horse races.

8492 (5) "Racetrack facility" means a racetrack within Utah approved by the commission for
8493 the racing of horses, including the track surface, grandstands, clubhouse, all animal housing
8494 and handling areas, and other areas in which a person may enter only upon payment of an
8495 admission fee or upon presentation of authorized credentials.

8496 (6) "Recognized race meet" means a race meet recognized by a national horse breed
8497 association.

8498 (7) "Utah bred horse" means a horse that is sired by a stallion standing in Utah at the
8499 time the dam was bred.

8500 Section 371. Section ~~4-38-103~~, which is renumbered from Section 4-38-3 is
8501 renumbered and amended to read:

8502 ~~[4-38-3]~~. **4-38-103. Utah Horse Racing Commission.**

8503 (1) (a) There is created within the department the Utah Horse Racing Commission.

8504 (b) (i) The commission shall consist of seven members who shall be United States
8505 citizens, Utah residents, and qualified voters ~~[of]~~ in Utah.

8506 (ii) Each member shall have an interest in horse racing.

8507 (iii) Two members shall be chosen from horse racing organizations.

8508 (c) (i) The governor shall appoint the members of the commission.

8509 (ii) The governor shall appoint commission members from a list of nominees submitted
8510 by the commissioner of agriculture and food.

8511 (d) (i) The members of the commission shall be appointed to four-year terms.

8512 (ii) A commission member may not serve more than two consecutive terms.

8513 (e) Each member shall hold office until ~~[his or her]~~ the member's successor is
8514 appointed and qualified.

8515 (f) Vacancies on the commission shall be filled by appointment by the governor for the
8516 unexpired term.

8517 (g) (i) A member may be removed from office by the governor for cause after a public
8518 hearing.

8519 (ii) Notice of the hearing shall fix the time and place of the hearing and shall specify
8520 the charges.

8521 (iii) Copies of the notice of the hearing shall be served on the member by mailing [it]

8522 the notice of hearing to the member at [~~his~~] the member's last known address at least 10 days
8523 before the date fixed for the hearing.

8524 (iv) The governor may designate a hearing officer to preside over the hearing and
8525 report [~~his~~] the hearing findings to the governor.

8526 (2) (a) The members of the commission shall annually elect a commission chair.

8527 (b) Five members of the commission shall constitute a quorum for the transaction of
8528 any business of the commission.

8529 (3) A member may not receive compensation or benefits for the member's service, but
8530 may receive per diem and travel expenses in accordance with:

8531 (a) Section 63A-3-106;

8532 (b) Section 63A-3-107; and

8533 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
8534 63A-3-107.

8535 (4) All claims and expenditures made under this chapter shall be first audited and
8536 passed [~~upon~~] by the commission and when approved shall be paid in the manner provided by
8537 law for payment of claims against the state.

8538 (5) Any member of the commission who has a personal or private interest in any matter
8539 proposed or pending before the commission shall publicly disclose this fact to the commission
8540 and may not vote on the matter.

8541 (6) Any member of the commission who owns or who has any interest₂ or whose
8542 spouse or member of his immediate family has any interest₂ in a horse participating in a race
8543 shall disclose that interest and may not participate in any commission decision involving that
8544 race.

8545 Section 372. Section ~~4-38-104~~, which is renumbered from Section 4-38-4 is
8546 renumbered and amended to read:

8547 [~~4-38-4~~]. **4-38-104. Powers and duties of commission.**

8548 (1) The commission shall:

8549 (a) license, regulate, and supervise all persons involved in the racing of horses as
8550 provided in this chapter;

8551 (b) license, regulate, and supervise all recognized race meets held in this state under the
8552 terms of this chapter;

- 8553 (c) cause the various places where recognized race meets are held to be visited and
8554 inspected at least once a year;
- 8555 (d) assist in procuring public liability insurance coverage from a private insurance
8556 company for those licensees unable to otherwise obtain the insurance required under this
8557 chapter;
- 8558 (e) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
8559 Rulemaking Act, to govern race meets, including rules:
- 8560 (i) to resolve scheduling conflicts and settle disputes among licensees;
- 8561 (ii) to supervise, discipline, suspend, fine, and bar from events all persons required to
8562 be licensed by this chapter; and
- 8563 (iii) to hold, conduct, and operate all recognized race meets conducted pursuant to this
8564 chapter;
- 8565 (f) determine which persons participating, directly or indirectly, in recognized race
8566 meets require licenses;
- 8567 (g) announce the time, place, and duration of recognized race meets for which licenses
8568 shall be required; and
- 8569 (h) establish reasonable fees for all licenses provided for under this chapter.
- 8570 (2) The commission may:
- 8571 (a) grant, suspend, or revoke licenses issued under this chapter;
- 8572 (b) impose fines as provided in this chapter;
- 8573 (c) access criminal history record information for all licensees and commission
8574 employees; and
- 8575 (d) exclude from any racetrack facility in this state any person who the commission
8576 considers detrimental to the best interests of racing or any person who violates any provisions
8577 of this chapter or any rule or order of the commission.
- 8578 Section 373. Section **4-38-105**, which is renumbered from Section 4-38-5 is
8579 renumbered and amended to read:
- 8580 **[4-38-5]. 4-38-105. Executive director.**
- 8581 (1) The commission shall be under the general administrative control of an executive
8582 director appointed by the commissioner with the concurrence of the commission.
- 8583 (2) The executive director shall serve at the pleasure of the commissioner.

8584 Section 374. Section **4-38-106**, which is renumbered from Section 4-38-6 is
8585 renumbered and amended to read:

8586 ~~[4-38-6]~~. **4-38-106. Public records.**

8587 All records of the commission shall be subject to Title 63G, Chapter 2, Government
8588 Records Access and Management Act.

8589 Section 375. Section **4-38-201**, which is renumbered from Section 4-38-7 is
8590 renumbered and amended to read:

8591 **Part 2. Events**

8592 ~~[4-38-7]~~. **4-38-201. Licenses -- Fees -- Duties of licensees.**

8593 (1) The commission may grant licenses for participation in racing and other activities
8594 associated with racetracks.

8595 (2) The commission shall establish a schedule of fees for the application for and
8596 renewal and reinstatement of all licenses issued under this chapter.

8597 (3) Each person holding a license under this chapter shall comply with this chapter and
8598 with all rules ~~[promulgated]~~ issued and all orders issued by the commission under this chapter.

8599 (4) Any person who holds a recognized race meet or who participates directly or
8600 indirectly in a recognized race meet without being first licensed by the commission as required
8601 under this chapter and any person violating any provisions of this chapter is subject to penalties
8602 under Section ~~[4-2-15]~~ 4-2-305.

8603 Section 376. Section **4-38-202**, which is renumbered from Section 4-38-8 is
8604 renumbered and amended to read:

8605 ~~[4-38-8]~~. **4-38-202. Stewards.**

8606 (1) (a) The commission may delegate authority to enforce ~~[its]~~ commission rules and
8607 this chapter to three stewards employed by the commission at each recognized race meet. At
8608 least one of ~~[them]~~ the stewards shall be selected by the commission.

8609 (b) Stewards shall exercise reasonable and necessary authority as designated by rules of
8610 the commission including the following:

8611 (i) enforce rules of the commission;

8612 (ii) rule on the outcome of events;

8613 (iii) evict from an event any person who has been convicted of bookmaking, bribery, or
8614 attempts to alter the outcome of any race through tampering with any animal that is not in

8615 accordance with this chapter or the rules of the commission;

8616 (iv) levy fines not to exceed \$2,500 for violations of rules of the commission, which
8617 fines shall be reported daily and paid to the commission within 48 hours of imposition and
8618 notice;

8619 (v) suspend licenses not to exceed one year for violations of rules of the commission,
8620 which suspension shall be reported to the commission daily; and

8621 (vi) recommend that the commission impose fines or suspensions greater than
8622 permitted by Subsections (1)(b)(iv) and (v).

8623 (2) If a majority of the stewards agree, they may impose fines or suspend licenses.

8624 (3) (a) Any fine or license suspension imposed by a steward may be appealed in writing
8625 to the commission within five days after [its] the license suspension imposition. The
8626 commission may affirm or reverse the decision of a steward or may increase or decrease any
8627 fine or suspension.

8628 (b) A fine imposed by the commission under this section or Section [~~4-38-9~~] [4-38-301](#)
8629 may not exceed \$10,000.

8630 (c) Suspensions of a license may be for any period of time but shall be commensurate
8631 with the seriousness of the offense.

8632 Section 377. Section ~~4-38-203~~, which is renumbered from Section 4-38-10 is
8633 renumbered and amended to read:

8634 ~~[4-38-10]~~. **4-38-203. Race meets -- Licenses -- Fairs.**

8635 (1) Each person making application for a license to hold a race meet under this chapter
8636 shall file an application with the commission which shall set forth the time, place, and number
8637 of days the race meet will continue, and other information the commission may require.

8638 (2) A person who has been convicted of a crime involving moral turpitude may not be
8639 issued a license to hold a race meet.

8640 (3) (a) The license issued shall specify the kind and character of the race meet to be
8641 held, the number of days the race meet shall continue, and the number of races per day.

8642 (b) The licensee shall pay in advance of the scheduled race meet to the commission a
8643 fee of not less than \$25. If unforeseen obstacles arise which prevent the holding or completion
8644 of any race meet, the license fee held may be refunded to the licensee if the commission
8645 considers the reason for failure to hold or complete the race meet sufficient.

8646 (4) (a) Any unexpired license held by any person who violates any of the provisions of
8647 this chapter, or [who] fails to pay to the commission any fees required under this chapter, shall
8648 be subject to cancellation and revocation by the commission.

8649 (b) This cancellation shall be made only after a summary hearing before the
8650 commission, of which seven days notice in writing shall be given the licensee, specifying the
8651 grounds for the proposed cancellation. At the hearing, the licensee shall be given an
8652 opportunity to be heard in opposition to the proposed cancellation.

8653 (5) (a) Fair boards or fair districts that conduct race meets in connection with regularly
8654 scheduled annual fairs shall be exempt from payment of the fees provided in this section,
8655 unless they sponsor a race in which the speed indexes are officially recognized under breed
8656 requirements.

8657 (b) All fair boards and fair meets shall be limited to 14 race days, unless otherwise
8658 permitted by a unanimous vote of the commission.

8659 (6) The exemption from the payment of fees under Subsection (5)(a) does not apply to
8660 those qualifying for official speed index races.

8661 Section 378. Section ~~4-38-301~~, which is renumbered from Section 4-38-9 is
8662 renumbered and amended to read:

8663 **Part 3. Investigations and Prohibitions**

8664 ~~[4-38-9]~~. **4-38-301. Investigation -- License denial and suspension -- Grounds**
8665 **for revocation -- Fines.**

8666 (1) The commission or [its] board of stewards of a recognized race meet, upon their
8667 own motion may, and upon verified complaint in writing of any person shall, investigate the
8668 activities of any licensee within the state or any licensed person upon the premises of a
8669 racetrack facility.

8670 (2) The commission or board of stewards may fine, suspend a license, or deny an
8671 application for a license.

8672 (3) The commission may revoke a license, if the licensee has committed any of the
8673 following violations:

8674 (a) substantial or willful misrepresentation;

8675 (b) disregard for or violation of any provisions of this chapter or of any rule
8676 [~~promulgated~~] issued by the commission;

- 8677 (c) conviction of a felony under the laws of this or any other state or of the United
8678 States, a certified copy of the judgment of the court of conviction of which shall be
8679 presumptive evidence of the conviction in any hearing held under this section;
- 8680 (d) fraud, willful misrepresentation, or deceit in racing;
- 8681 (e) falsification, misrepresentation, or omission of required information in a license
8682 application to the commission;
- 8683 (f) failure to disclose to the commission a complete ownership or beneficial interest in
8684 a horse entered to be raced;
- 8685 (g) misrepresentation or attempted misrepresentation in connection with the sale of a
8686 horse or other matter pertaining to racing or registration of racing animals;
- 8687 (h) failure to comply with any order or rulings of the commission, the stewards, or a
8688 racing official pertaining to a racing matter;
- 8689 (i) ownership of any interest in or participation by any manner in any bookmaking,
8690 pool-selling, touting, bet solicitation, or illegal enterprise;
- 8691 (j) being unqualified by experience or competence to perform the activity permitted by
8692 the license possessed or being applied for;
- 8693 (k) employment or harboring of any unlicensed person on the premises of a racetrack
8694 facility;
- 8695 (l) discontinuance of or ineligibility for the activity for which the license was issued;
- 8696 (m) being currently under suspension or revocation of a racing license in another racing
8697 jurisdiction;
- 8698 (n) possession on the premises of a racetrack facility of:
- 8699 (i) firearms; or
- 8700 (ii) a battery, buzzer, electrical device, or other appliance other than a whip which
8701 could be used to alter the speed of a horse in a race or while working out or schooling;
- 8702 (o) possession, on the premises of a racetrack facility, by a person other than a licensed
8703 veterinarian of a hypodermic needle, hypodermic syringe, or other similar device that may be
8704 used in administering medicine internally in a horse, or any substance, compound items, or
8705 combination of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter
8706 the normal performance of a horse unless specifically authorized by a commission-approved
8707 veterinarian;

8708 (p) cruelty to or neglect of a horse;

8709 (q) offering, promising, giving, accepting, or soliciting a bribe in any form, directly or
8710 indirectly, to or by a person having any connection with the outcome of a race, or failure to
8711 report knowledge of such act immediately to the stewards, the patrol judges, or the
8712 commission;

8713 (r) causing, attempting to cause, or participation in any way in any attempt to cause the
8714 prearrangement of a race result, or failure to report knowledge of such act immediately to the
8715 stewards, the patrol judges, or the commission;

8716 (s) entering, or aiding and abetting the entry of, a horse ineligible or unqualified for the
8717 race entered;

8718 (t) willfully or unjustifiably entering or racing any horse in any race under any name or
8719 designation other than the name or designation assigned to the animal by and registered with
8720 the official recognized registry for that breed of animal, or willfully setting on foot, instigating,
8721 engaging in, or in any way furthering any act by which any horse is entered or raced in any race
8722 under any name or designation other than the name or designation duly assigned by and
8723 registered with the official recognized registry for the breed of animal; or

8724 (u) racing at a racetrack facility without having that horse registered to race at that
8725 racetrack facility.

8726 (4) (a) Any person who fails to pay in a timely manner any fine imposed pursuant to
8727 this chapter shall pay, in addition to the fine due, a penalty amount equal to the fine.

8728 (b) Any person who submits to the commission a check in payment of a fine or license
8729 fee requirement imposed pursuant to this chapter, which is not honored by the financial
8730 institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount
8731 equal to the fine.

8732 Section 379. Section **4-38-302**, which is renumbered from Section 4-38-11 is
8733 renumbered and amended to read:

8734 ~~[4-38-11]~~. **4-38-302. Stimulation or retardation of animals prohibited -- Tests.**

8735 (1) Any person who uses or permits the use of any mechanical or electrical device, or
8736 drug of any kind, to stimulate or retard any animal in any race authorized by this chapter,
8737 except as prescribed by the commission, is guilty of a class A misdemeanor.

8738 (2) A commission member or race steward may cause tests to be made that ~~they~~

8739 ~~consider~~] the commission considers proper to determine whether any animal has been
 8740 stimulated or retarded. Tests performed in furtherance of this section shall be conducted by or
 8741 under the supervision of a licensed Utah veterinarian.

8742 Section 380. Section ~~4-38-303~~, which is renumbered from Section 4-38-12 is
 8743 renumbered and amended to read:

8744 ~~[4-38-12]~~. **4-38-303. Bribery and touting prohibited.**

8745 Any person who gives or promises or attempts to give, or any person who receives or
 8746 agrees to receive or attempts to receive, any money, bribe, or thing of value with intent to
 8747 influence any person to dishonestly umpire, manage, direct, judge, preside, officiate at, or
 8748 participate in any race conducted under this chapter with the intent or purpose that the result of
 8749 the race will be affected or influenced thereby, is guilty of a felony of the third degree and
 8750 subject to a fine of not more than \$10,000.

8751 Section 381. Section ~~4-38-304~~, which is renumbered from Section 4-38-15 is
 8752 renumbered and amended to read:

8753 ~~[4-38-15]~~. **4-38-304. Gambling disclaimer.**

8754 Nothing in this chapter may be construed to legalize or permit any form of gambling.

8755 Section 382. Section ~~4-38-401~~, which is renumbered from Section 4-38-13 is
 8756 renumbered and amended to read:

8757 **Part 4. Finances**

8758 ~~[4-38-13]~~. **4-38-401. Race meet escrow.**

8759 (1) Each race meet licensee shall deposit in escrow all added money and money from
 8760 payment races in a FDIC bank that has received prior approval from the commission.

8761 (2) All payment deposits shall be made in a timely manner determined by the
 8762 commission, and each licensee shall provide proof of deposits as required by the commission.

8763 Section 383. Section ~~4-38-402~~, which is renumbered from Section 4-38-16 is
 8764 renumbered and amended to read:

8765 ~~[4-38-16]~~. **4-38-402. Horse Racing Account created -- Contents -- Use of**
 8766 **account money.**

8767 (1) There is created within the General Fund a restricted account known as the Horse
 8768 Racing Account.

8769 (2) The Horse Racing Account consists of:

- 8770 (a) license fees collected under this chapter;
- 8771 (b) revenue from fines imposed under this chapter; and
- 8772 (c) interest on account money.
- 8773 (3) Upon appropriation by the Legislature, money from the account shall be used for
- 8774 the administration of this chapter, including paying the costs of:
 - 8775 (a) public liability insurance;
 - 8776 (b) stewards;
 - 8777 (c) veterinarians; and
 - 8778 (d) drug testing.

8779 Section 384. Section ~~4-38-501~~, which is renumbered from Section 4-38-14 is
 8780 renumbered and amended to read:

8781 **Part 5. Hearings**

8782 ~~[4-38-14]~~. **4-38-501. Hearings.**

8783 (1) Except as otherwise provided in this section, all proceedings before the commission
 8784 or ~~[its]~~ the commission's hearing officer with respect to the denial, suspension, or revocation of
 8785 licenses or the imposition of fines shall be conducted pursuant to Title 63G, Chapter 4,
 8786 Administrative Procedures Act.

8787 (2) (a) These proceedings shall be held in the county where the commission has ~~[its]~~ an
 8788 office or in any other place the commission designates.

8789 (b) The commission shall notify the applicant or licensee by mailing, by first class
 8790 mail, a copy of the written notice required to the last address furnished by the application or
 8791 licensee to the commission at least seven days in advance of the hearing.

8792 (3) The commission may delegate ~~[its]~~ the commission's authority to conduct hearings
 8793 with respect to the denial or suspension of licenses or the imposition of a fine to a hearing
 8794 officer.

8795 (4) Proceedings before the board of stewards need not be governed by the procedural or
 8796 other requirements of ~~[the]~~ Title 63G, Chapter 4, Administrative Procedures Act, but rather
 8797 shall be conducted in accordance with rules adopted by the commission.

8798 (5) The commission and the board of stewards may administer oaths and affirmations,
 8799 sign and issue subpoenas, order the production of documents and other evidence, and regulate
 8800 the course of the hearing pursuant to rules adopted by ~~[it]~~ the commission.

8801 (6) (a) Any person aggrieved by a final order or ruling issued by a board of stewards
8802 may appeal the order or ruling to the commission pursuant to procedural rules adopted by the
8803 commission.

8804 (b) The aggrieved party may petition the commission for a stay of execution pending
8805 appeal to the commission.

8806 Section 385. Section **4-39-102** is amended to read:

8807 **4-39-102. Definitions.**

8808 As used in this chapter:

8809 (1) "Domesticated elk" means elk of the genus and species cervus elaphus, held in
8810 captivity and domestically raised for commercial purposes.

8811 (2) "Domesticated elk facility" means a facility where only domesticated elk are raised.

8812 (3) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat
8813 food product, antlers, or any part of a domesticated elk.

8814 Section 386. Section **4-39-104** is amended to read:

8815 **4-39-104. Domesticated Elk Act advisory council.**

8816 (1) The department shall establish a Domesticated Elk Act advisory council to give
8817 advice and make recommendations on policies and rules adopted pursuant to this chapter.

8818 (2) The advisory council shall consist of 10 members appointed by the commissioner
8819 of agriculture to four-year terms as follows:

8820 (a) one member, recommended by the executive director of the Department of Natural
8821 Resources, shall represent the Department of Natural Resources;

8822 (b) two members, one of whom shall be the state veterinarian, shall represent the
8823 Department of Agriculture[~~one of whom shall be the state veterinarian~~];

8824 (c) one member shall represent the livestock industry;

8825 (d) one member, recommended by the executive director of the Department of Natural
8826 Resources from a list of candidates submitted by the Division of Wildlife Resources, shall
8827 represent wildlife interests; and

8828 (e) five members, recommended by the Department of Agriculture, shall represent the
8829 domesticated elk industry.

8830 (3) Notwithstanding the requirements of Subsection (2), the commissioner shall, at the
8831 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

8832 council members are staggered so that approximately half of the council is appointed every two
8833 years.

8834 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
8835 appointed for the unexpired term.

8836 (5) (a) A majority of the advisory council constitutes a quorum.

8837 (b) A quorum is necessary for the council to act.

8838 (6) A member may not receive compensation or benefits for the member's service, but
8839 may receive per diem and travel expenses in accordance with:

8840 (a) Section [63A-3-106](#);

8841 (b) Section [63A-3-107](#); and

8842 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
8843 [63A-3-107](#).

8844 Section 387. Section **4-39-107** is amended to read:

8845 **4-39-107. Powers of state veterinarian.**

8846 The state veterinarian shall:

8847 (1) set up periodic or ongoing surveillance programs considered necessary for:

8848 (a) the recognition, control, monitoring, and elimination of infectious diseases and
8849 parasites; and

8850 (b) monitoring genetic purity; and

8851 (2) quarantine or make any disposition of diseased animals that [~~he or she~~] the state
8852 veterinarian considers necessary for the control or eradication of that disease.

8853 Section 388. Section **4-39-108** is amended to read:

8854 **4-39-108. Deposit of fees.**

8855 The department shall deposit all fees collected under this chapter into the Utah
8856 Livestock Brand and Anti-Theft Account created in Section [~~4-24-24~~] [4-24-502](#).

8857 Section 389. Section **4-39-201** is amended to read:

8858 **4-39-201. Fencing, posts, and gates.**

8859 (1) [~~Each~~] A domesticated elk facility shall, at a minimum, meet the requirements of
8860 this section and shall be constructed to prevent the movement of [~~domesticated elk~~] domestic
8861 wild cervids into or out of the facility.

8862 (2) (a) All perimeter fences and gates shall be:

- 8863 (i) a minimum of eight feet above ground level; and
8864 (ii) constructed of hi-tensile steel.
- 8865 (b) At least the bottom four feet shall be mesh with a maximum mesh size of 6" x 6".
8866 (c) The remaining four feet shall be mesh with a maximum mesh size of 12" x 6".
8867 (3) The minimum wire gauge shall be 14-1/2 gauge for a 2 woven hi-tensile fence.
8868 (4) All perimeter gates at the entrances of a domesticated elk handling [facilities]
8869 facility shall be locked, with consecutive or self-closing gates when animals are present.
- 8870 (5) Posts shall be:
8871 (a) (i) constructed of treated wood [~~which~~] that is at least four inches in diameter; or
8872 (ii) constructed of a material with the strength equivalent of Subsection (5)(a)(i);
8873 (b) spaced no more than 30 feet apart if one stay is used, or 20 feet apart if no stays are
8874 used; and
8875 (c) at least eight feet above ground level and two feet below ground level.
- 8876 (6) Stays, between the posts, shall be:
8877 (a) constructed of treated wood or steel;
8878 (b) spaced no more than 15 feet from any post; and
8879 (c) at least eight feet above ground level, and two feet below ground level.
- 8880 (7) Corner posts and gate posts shall be braced wood or its strength equivalent.
- 8881 Section 390. Section **4-39-202** is amended to read:
8882 **4-39-202. General facility requirements.**
- 8883 (1) (a) Internal handling facilities shall be capable of humanely restraining an
8884 individual animal and to facilitate:
8885 (i) the application or reading of any animal identification;
8886 (ii) the taking of blood or tissue samples; and
8887 (iii) any other required or necessary testing procedure.
- 8888 (b) A domesticated elk facility shall be properly constructed to protect inspection
8889 personnel while [~~they~~] inspection personnel are handling the domesticated elk.
- 8890 (2) The domesticated elk facility owner shall provide ample signage around the facility
8891 indicating that it is a domesticated elk facility, so that the public is put on notice that the
8892 animals are not wild elk.
- 8893 Section 391. Section **4-39-203** is amended to read:

8894 **4-39-203. License required to operate a domesticated elk facility.**

8895 (1) A person may not operate a domesticated elk facility without first obtaining a
8896 license from the department.

8897 (2) (a) Each application for a license to operate a domesticated elk facility shall be
8898 accompanied by a fee.

8899 (b) The fee shall be established by the department in accordance with Section
8900 [63J-1-504](#).

8901 (3) Each applicant for a domesticated elk facility license shall submit an application
8902 providing all information in the form and manner as required by the department.

8903 (4) (a) No license shall be issued until the department has inspected and approved the
8904 facility.

8905 (b) The department shall:

8906 (i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled
8907 inspection so that a Division of Wildlife Resources representative may be present at the
8908 inspection; and

8909 (ii) provide the Division of Wildlife Resources with copies of all licensing and
8910 inspection reports.

8911 (5) Each separate location of the domesticated elk operation shall be licensed
8912 separately.

8913 (6) (a) If a domesticated elk facility is operated under more than one business name
8914 from a single location, the name of each operation shall be listed with the department in the
8915 form and manner required by the department.

8916 (b) The department shall require that a separate fee be paid for each business name
8917 listed.

8918 (c) If a domesticated elk facility operates under more than one business name from a
8919 single location, ~~the~~ each facility shall maintain separate records.

8920 (7) Each person or business entity with an equity interest in the domesticated elk shall
8921 be listed on the application for license.

8922 (8) Each domesticated elk facility license shall expire on July 1 in the year following
8923 the year of issuance.

8924 (9) Each licensee shall report to the department, in the form and manner required by

8925 the department, any change in the information provided in the licensee's application or in the
8926 reports previously submitted, within 15 days of each change.

8927 (10) Licenses issued pursuant to this section are not transferable.

8928 Section 392. Section **4-39-205** is amended to read:

8929 **4-39-205. License renewal.**

8930 (1) To renew a license, the licensee shall submit to the department:

8931 (a) an inspection certificate showing that:

8932 (i) the domesticated elk, on the domesticated elk facility, have been inspected and
8933 certified by the department for health, proof of ownership, and genetic purity certification for
8934 all elk imported into the state; and

8935 (ii) the facility has been properly maintained as provided in this chapter during the
8936 immediately preceding 60-day period; and

8937 (b) a record of each purchase of domesticated elk and transfer of domesticated elk into
8938 the facility, which shall include the following information:

8939 (i) name, address, and health approval number of the source;

8940 (ii) date of transaction; and

8941 (iii) number and sex.

8942 (2) (a) If the application for renewal is not received on or before April 30, a late fee
8943 will be charged.

8944 (b) A license may not be renewed until the fee is paid.

8945 (3) If the application and fee for renewal are not received on or before July 1, the
8946 license may not be renewed, and a new license shall be required.

8947 Section 393. Section **4-39-206** is amended to read:

8948 **4-39-206. Records to be maintained.**

8949 (1) The following records and information shall be maintained by a domesticated elk
8950 facility for [~~a period of five years~~] the life of the animal plus two years:

8951 (a) records of purchase, acquisition, distribution, and production histories of
8952 domesticated elk;

8953 (b) records documenting antler harvesting, production, and distribution; and

8954 (c) health certificates [~~and genetic purity records~~].

8955 (2) For purposes of carrying out the provisions of this chapter and rules [~~promulgated~~]

8956 made under this chapter [~~and~~], at any reasonable time during regular business hours, the
8957 department shall have free and unimpeded access to inspect all records required to be kept.

8958 (3) The department may make copies of the records referred to in this section.

8959 Section 394. Section **4-39-207** is amended to read:

8960 **4-39-207. Inspection of facilities.**

8961 (1) The department may conduct pathological or physical investigations at any
8962 domesticated elk facility to ensure compliance with this chapter.

8963 (2) For purposes of carrying out the provisions of this chapter and rules [~~promulgated~~]
8964 made under this chapter [~~and~~], at any reasonable time during regular business hours, the
8965 department shall have free and unimpeded access to inspect all buildings, yards, pens, pastures,
8966 and other areas in which any domesticated elk are kept, handled, or transported.

8967 (3) The department shall notify the Division of Wildlife Resources prior to an
8968 inspection so that a Division of Wildlife Resources representative may be present at the
8969 inspection.

8970 Section 395. Section **4-39-301** is amended to read:

8971 **4-39-301. Genetic purity requirements -- Proof of source.**

8972 [~~As part of any inspection for licensing or renewing the license of a domesticated elk~~
8973 ~~facility, or for the importation, transportation, or change of ownership of any domesticated elk,~~
8974 ~~the] The department shall require:~~

8975 [~~(1) proof of genetic testing to ensure the purity of the domesticated elk herds and~~
8976 ~~prevent the introduction of red deer or hybrid nonnative species into domesticated elk herds in~~
8977 ~~Utah by showing evidence of the purity of live animals, gametes, eggs, sperm, or other genetic~~
8978 ~~material; and]~~

8979 (1) that each domesticated elk, including gametes, eggs, or sperm, imported into the
8980 state:

8981 (a) test negative for the red deer genetic factor;

8982 (b) be registered with gold or silver status with the North American Elk Breeders
8983 Association; or

8984 (c) come from a state which has a red deer genetic factor prevention program approved
8985 by the department; and

8986 (2) proof that the domesticated elk originates from a legal source as provided in

8987 Section 4-39-302.

8988 Section 396. Section 4-39-304 is amended to read:

8989 **4-39-304. Marking domesticated elk.**

8990 (1) Each domesticated elk, not previously tattooed, shall be marked by either a tattoo,
8991 as provided in Subsection (2), or by [~~a microchip~~] an electronic identification tag, as provided
8992 in Subsection (3):

8993 (a) within 30 days of a change of ownership; or

8994 (b) in the case of newborn calves, within 15 days after being weaned, but in any case,
8995 no later than September 15.

8996 (2) If a domesticated elk is identified with a tattoo, the tattoo shall:

8997 (a) be placed peri-anally or inside the right ear; and

8998 (b) consist of a four-digit herd number assigned by the department over a three-digit
8999 individual animal number assigned by the owner.

9000 (3) If a domesticated elk is identified with [~~a microchip~~] an electronic identification
9001 tag, it shall be placed in the right ear.

9002 Section 397. Section 4-39-305 is amended to read:

9003 **4-39-305. Transportation of domesticated elk to or from domesticated elk**
9004 **facilities.**

9005 Any domesticated elk transferred to or from a domesticated elk facility within the state
9006 shall be:

9007 (1) accompanied by [~~a brand inspection certificate~~] proof of ownership specifying the
9008 following:

9009 (a) the name, address, and facility license number of the source;

9010 (b) the number, sex, and individual identification number; and

9011 (c) the name, address, and facility license number of the destination;

9012 (2) accompanied by proof of genetic purity as provided in Section 4-39-301; and

9013 (3) inspected by the department as provided in Section 4-39-306.

9014 Section 398. Section 4-39-306 is amended to read:

9015 **4-39-306. Inspection before movement, sale, or slaughter.**

9016 (1) Each domesticated elk facility licensee shall have the domesticated elk inspected by
9017 the department [~~prior to~~] before any transportation, sale, [~~removal of antlers;~~] or slaughter.

9018 (2) Any person transporting or possessing domesticated elk or domesticated elk
9019 products shall have the appropriate brand inspection certificate in ~~[his or her]~~ the person's
9020 possession.

9021 Section 399. Section ~~4-39-401~~ is amended to read:

9022 **4-39-401. Escape of domesticated elk -- Liability.**

9023 (1) It is the owner's responsibility to try to capture any domesticated elk that may have
9024 escaped.

9025 (2) The escape of a domesticated elk shall be reported immediately to the state
9026 veterinarian or a brand inspector ~~[of the Department of Agriculture]~~ who shall notify the
9027 Division of Wildlife Resources.

9028 (3) If the domesticated elk is not recovered within 72 hours of the escape, the
9029 ~~[Department of Agriculture]~~ department, in conjunction with the Division of Wildlife
9030 Resources, shall take whatever action is necessary to resolve the problem.

9031 (4) The owner shall reimburse the state or a state agency for any reasonable recapture
9032 costs that may be incurred in the recapture or destruction of the animal.

9033 (5) Any escaped domesticated elk taken by a licensed hunter in a manner ~~[which]~~ that
9034 complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the
9035 Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the
9036 state, nor a state agency shall be liable to the owner for the killing.

9037 (6) The owner shall be responsible to contain the domesticated elk to ensure that there
9038 is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk
9039 is protected.

9040 Section 400. Section ~~4-39-402~~ is amended to read:

9041 **4-39-402. Removal of wild cervids -- Liability.**

9042 (1) Upon discovery of wild elk in a domesticated ~~[elk]~~ cervids facility, the licensee
9043 shall immediately notify the Division of Wildlife Resources ~~[who]~~, which shall remove the
9044 wild elk.

9045 (2) The state or a state agency is not liable for disease or genetic purity problems of
9046 domesticated elk ~~[which]~~ that may be attributed to wild ~~[elk]~~ cervids.

9047 Section 401. Section ~~4-40-102~~ is amended to read:

9048 **4-40-102. Cat and Dog Community Spay and Neuter Program Restricted**

9049 **Account -- Interest -- Use of contributions and interest.**

9050 (1) There is created within the General Fund the Cat and Dog Community Spay and
9051 Neuter Program Restricted Account.

9052 (2) The account shall be funded by contributions deposited into the Cat and Dog
9053 Community Spay and Neuter Program Restricted Account in accordance with Section
9054 [59-10-1310](#).

9055 (3) (a) The Cat and Dog Community Spay and Neuter Program Restricted Account
9056 shall earn interest.

9057 (b) Interest earned on the Cat and Dog Community Spay and Neuter Program
9058 Restricted Account shall be deposited into the Cat and Dog Community Spay and Neuter
9059 Program Restricted Account.

9060 (4) The department [~~of Agriculture~~] shall distribute contributions and interest deposited
9061 into the Cat and Dog Community Spay and Neuter Program Restricted Account to one or more
9062 organizations that:

9063 (a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue
9064 Code; or

9065 (b) operate as a city or county animal shelter.

9066 (5) (a) An organization described in Subsection (4) may apply to the department to
9067 receive a distribution in accordance with Subsection (4).

9068 (b) An organization that receives a distribution from the department in accordance with
9069 Subsection (4):

9070 (i) shall expend the distribution only to spay or neuter dogs and cats:

9071 (A) owned by persons having low incomes; and

9072 (B) by veterinarians who are licensed by Title 58, Chapter 28, Veterinary Practice Act;

9073 and

9074 (ii) may not expend the distribution for any administrative cost relating to an
9075 expenditure authorized by Subsection (5)(b)(i).

9076 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
9077 department may make rules:

9078 (i) providing procedures and requirements for an organization to apply to the
9079 department to receive a distribution in accordance with Subsection (4); and

9080 (ii) to define what constitutes a person having a low income.

9081 Section 402. Section **4-41-103** is amended to read:

9082 **4-41-103. Industrial hemp -- Agricultural and academic research.**

9083 (1) The department may grow or cultivate industrial hemp for the purpose of
9084 agricultural or academic research.

9085 (2) The department shall certify a higher education institution to grow or cultivate
9086 industrial hemp for the purpose of agricultural or academic research if the higher education
9087 institution submits to the department:

9088 (a) the location where the higher education institution intends to grow or cultivate
9089 industrial hemp;

9090 (b) the higher education institution's research plan; and

9091 (c) the name of an employee of the higher education institution who will supervise the
9092 industrial hemp growth, cultivation, and research.

9093 (3) The department shall maintain a list of each industrial hemp certificate holder.

9094 (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
9095 Administrative Rulemaking Act, to ensure any industrial hemp project meets the standards of
9096 an agricultural pilot project, as defined by Section 7606 of the [U.S.] United States Agricultural
9097 Act of 2014.

9098 (5) The department may set a fee, pursuant to Subsection [4-2-103\(2\)](#), for the
9099 application of an industrial hemp certificate.

9100 Section 403. Section **10-8-85.8** is amended to read:

9101 **10-8-85.8. Indemnification of farmers markets.**

9102 A municipality may:

9103 (1) operate a farmers market, as defined in Section [~~4-5-2~~] [4-5-102](#), on
9104 municipality-owned property in order to promote economic development;

9105 (2) indemnify a food producer participating in the farmers market; and

9106 (3) define the scope of the indemnification in an agreement with the food producer.

9107 Section 404. Section **11-38-302** is amended to read:

9108 **11-38-302. Use of money in program -- Criteria -- Administration.**

9109 (1) Subject to Subsection (2), the commission may authorize the use of money in the
9110 program, by grant, to:

- 9111 (a) a local entity;
- 9112 (b) the Department of Natural Resources created under Section [79-2-201](#);
- 9113 (c) the Department of Agriculture and Food created under Section ~~[4-2-1]~~ [4-2-102](#); or
- 9114 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3)
- 9115 ~~[of the]~~, Internal Revenue Code.

9116 (2) (a) The money in the program shall be used for preserving or restoring open land

9117 and agricultural land.

9118 (b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be

9119 used to purchase a fee interest in real property in order to preserve open land or agricultural

9120 land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land

9121 Conservation Easement Act, or to fund similar methods to preserve open land or agricultural

9122 land.

9123 (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to

9124 purchase a fee interest in real property to preserve open land or agricultural land if:

9125 (A) the parcel to be purchased is no more than 20 acres in size; and

9126 (B) with respect to a parcel purchased in a county in which over 50% of the land area is

9127 publicly owned, real property roughly equivalent in size and located within that county is

9128 contemporaneously transferred to private ownership from the governmental entity that

9129 purchased the fee interest in real property.

9130 (iii) Eminent domain may not be used or threatened in connection with any purchase

9131 using money from the program.

9132 (iv) A parcel of land larger than 20 acres in size may not be divided into separate

9133 parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

9134 (c) A local entity, department, or organization under Subsection (1) may not receive

9135 money from the program unless it provides matching funds equal to or greater than the amount

9136 of money received from the program.

9137 (d) In granting money from the program, the commission may impose conditions on

9138 the recipient as to how the money is to be spent.

9139 (e) The commission shall give priority to requests from the Department of Natural

9140 Resources for up to 20% of each annual increase in the amount of money in the program if the

9141 money is used for the protection of wildlife or watershed.

9142 (f) (i) The commission may not make a grant from the program that exceeds
9143 \$1,000,000 until after making a report to the Legislative Management Committee about the
9144 grant.

9145 (ii) The Legislative Management Committee may make a recommendation to the
9146 commission concerning the intended grant, but the recommendation is not binding on the
9147 commission.

9148 (3) In determining the amount and type of financial assistance to provide an entity,
9149 department, or organization under Subsection (1) and subject to Subsection (2)(f), the
9150 commission shall consider:

9151 (a) the nature and amount of open land and agricultural land proposed to be preserved
9152 or restored;

9153 (b) the qualities of the open land and agricultural land proposed to be preserved or
9154 restored;

9155 (c) the cost effectiveness of the project to preserve or restore open land or agricultural
9156 land;

9157 (d) the funds available;

9158 (e) the number of actual and potential applications for financial assistance and the
9159 amount of money sought by those applications;

9160 (f) the open land preservation plan of the local entity where the project is located and
9161 the priority placed on the project by that local entity;

9162 (g) the effects on housing affordability and diversity; and

9163 (h) whether the project protects against the loss of private property ownership.

9164 (4) If a local entity, department, or organization under Subsection (1) seeks money
9165 from the program for a project whose purpose is to protect critical watershed, the commission
9166 shall require that the needs and quality of that project be verified by the state engineer.

9167 (5) Each interest in real property purchased with money from the program shall be held
9168 and administered by the state or a local entity.

9169 Section 405. Section **17-50-323** is amended to read:

9170 **17-50-323. Indemnification of farmers markets.**

9171 A county may:

9172 (1) operate a farmers market, as defined in Section [~~4-5-2~~] [4-5-102](#), on county-owned

9173 property in order to promote economic development;

9174 (2) indemnify a food producer participating in the farmers market; and

9175 (3) define the scope of the indemnification in an agreement with the food producer.

9176 Section 406. Section **17D-3-102** is amended to read:

9177 **17D-3-102. Definitions.**

9178 As used in this chapter:

9179 (1) "Commission" means the Conservation Commission, created in Section [4-18-104](#).

9180 (2) "Conservation district" means a limited purpose local government entity, as
9181 described in Section [17D-3-103](#), that operates under, is subject to, and has the powers set forth
9182 in this chapter.

9183 (3) "Department" means the Department of Agriculture and Food, created in Section
9184 ~~[4-2-1]~~ [4-2-102](#).

9185 Section 407. Section **23-13-19** is amended to read:

9186 **23-13-19. Administering substances to protected wildlife prohibited --**

9187 **Exceptions.**

9188 (1) For purposes of this section:

9189 (a) "Administer" means the application of a substance by any method, including:

9190 (i) injection;

9191 (ii) inhalation;

9192 (iii) ingestion; or

9193 (iv) absorption.

9194 (b) "Agricultural producer" means a person who produces an agricultural product.

9195 (c) "Agricultural product" ~~[is as]~~ means the same as that term is defined in Section
9196 ~~[4-1-8]~~ [4-1-109](#).

9197 (d) "Substance" means a chemical or organic substance that:

9198 (i) pacifies;

9199 (ii) sedates;

9200 (iii) immobilizes;

9201 (iv) harms;

9202 (v) kills;

9203 (vi) controls fertility; or

9204 (vii) has an effect that is similar to an effect listed in Subsections (1)(d)(i) through (vi).

9205 (2) Except as authorized by Subsection (3) or a rule made by the Wildlife Board, a
9206 person may not administer or attempt to administer a substance to protected wildlife.

9207 (3) (a) A division employee or a person with written permission from the division may
9208 administer a substance to protected wildlife if that employee or person administers the
9209 substance to promote wildlife management and conservation.

9210 (b) One or more of the following may administer a substance to protected wildlife that
9211 the person is authorized by this title, the Wildlife Board, or the division to possess:

9212 (i) a licensed veterinarian;

9213 (ii) an unlicensed assistive personnel, as defined in Section 58-28-102; or

9214 (iii) a person who is following written instructions for veterinary care from a licensed
9215 veterinarian.

9216 (4) A person is not liable under this section for administering a substance,
9217 notwithstanding the substance has an effect described in Subsection (1)(d) on protected
9218 wildlife, if:

9219 (a) an agricultural producer administers the substance:

9220 (i) for the sole purpose of producing an agricultural product and not for the purpose of
9221 affecting protected wildlife in a manner described in Subsection (1)(d);

9222 (ii) consistent with generally accepted agricultural practices; and

9223 (iii) in compliance with applicable local, state, and federal law; or

9224 (b) the protected wildlife presents an immediate threat of death or serious bodily injury
9225 to a person.

9226 Section 408. Section 23-24-1 is amended to read:

9227 **23-24-1. Procedure to obtain compensation for livestock damage done by bear,**
9228 **mountain lion, wolf, or eagle.**

9229 (1) As used in this section:

9230 (a) "Damage" means injury to or loss of livestock.

9231 (b) "Division" means the Division of Wildlife Resources.

9232 (c) "Livestock" means cattle, sheep, goats, or turkeys.

9233 (d) (i) "Wolf" means the gray wolf *Canis lupus*.

9234 (ii) "Wolf" does not mean a wolf hybrid with a domestic dog.

9235 (2) (a) (i) Except as provided by Subsection (2)(a)(ii), if livestock are damaged by a
9236 bear, mountain lion, wolf, or an eagle, the owner may receive compensation for the fair market
9237 value of the damage.

9238 (ii) The owner may not receive compensation if the livestock is damaged by a wolf
9239 within an area where a wolf is endangered or threatened under the Endangered Species Act of
9240 1973, 16 U.S.C. Sec. 1531, et seq.

9241 (b) To obtain this compensation, the owner of the damaged livestock shall notify the
9242 division of the damage as soon as possible, but no later than four days after the damage is
9243 discovered.

9244 (c) The owner shall notify the division each time any damage is discovered.

9245 (3) The livestock owner shall file a proof of loss form, provided by the division, no
9246 later than 30 days after the original notification of damage was given to the division by the
9247 owner.

9248 (4) (a) (i) The division, with the assistance of the Department of Agriculture and Food
9249 shall:

9250 (A) within 30 days after the owner files the proof of loss form, either accept or deny the
9251 claim for damages; and

9252 (B) subject to Subsections (4)(a)(ii) through (4)(a)(iv), pay all accepted claims to the
9253 extent money appropriated by the Legislature is available for this purpose.

9254 (ii) Money appropriated from the Wildlife Resources Account may be used to provide
9255 compensation for only up to 50% of the fair market value of any damaged livestock.

9256 (iii) Money appropriated from the Wildlife Resources Account may not be used to
9257 provide compensation for livestock damaged by an eagle or a wolf.

9258 (iv) The division may not pay any eagle damage claim until the division has paid all
9259 accepted mountain lion and bear damage claims for the fiscal year.

9260 (b) The division may not pay mountain lion, bear, wolf, or eagle damage claims to a
9261 livestock owner unless the owner has filed a completed livestock form and the appropriate fee
9262 as outlined in Section [~~4-23-7~~] [4-23-107](#) for the immediately preceding and current year.

9263 (c) (i) Unless the division denies a claim for the reason identified in Subsection (4)(b),
9264 the owner may appeal the decision to a panel consisting of one person selected by the owner,
9265 one person selected by the division, and a third person selected by the first two panel members.

9266 (ii) The panel shall decide whether the division should pay all of the claim, a portion of
9267 the claim, or none of the claim.

9268 (5) By following the procedures and requirements of Title 63G, Chapter 3, Utah
9269 Administrative Rulemaking Act, the Wildlife Board may make and enforce rules to administer
9270 and enforce this section.

9271 Section 409. Section **26-15-1** is amended to read:

9272 **26-15-1. Definitions.**

9273 As used in this chapter:

9274 (1) (a) "Food handler" means any person working part-time or full-time in a food
9275 service establishment who moves food or food containers, prepares, stores, or serves food;
9276 comes in contact with any food, utensil, tableware or equipment; or washes the same. The term
9277 also includes owners, supervisors, and management persons, and any other person working in a
9278 food-service establishment. The term also includes any operator or person employed by one
9279 who handles food dispensed through vending machines; or who comes into contact with food
9280 contact surfaces or containers, equipment, utensils, or packaging materials used in connection
9281 with vending machine operations; or who otherwise services or maintains one or more vending
9282 machines.

9283 (b) "Food handler" does not include a producer of food products selling food at a
9284 farmers market as defined in Subsection ~~[4-5-2]~~ [4-5-102\(5\)](#).

9285 (2) "Pest" means a noxious, destructive, or troublesome organism whether plant or
9286 animal, when found in and around places of human occupancy, habitation, or use which
9287 threatens the public health or well being of the people within the state.

9288 (3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen
9289 that can affect public health.

9290 Section 410. Section **58-37c-19.5** is amended to read:

9291 **58-37c-19.5. Iodine solution greater than 1.5% -- Prescription or permit required**
9292 **-- Penalties.**

9293 (1) As used in this section, "iodine matrix" means iodine at concentrations greater than
9294 1.5% by weight in a matrix or solution.

9295 (2) A person may offer to sell, sell, or distribute an iodine matrix only:

9296 (a) as a prescription drug, pursuant to a prescription issued by a veterinarian or

- 9297 physician licensed within the state; or
- 9298 (b) to a person who is actively engaged in the legal practice of animal husbandry of
9299 livestock, as defined in Section [~~4-1-8~~] [4-1-109](#).
- 9300 (3) Prescriptions issued under this section:
- 9301 (a) shall provide for a specified number of refills;
- 9302 (b) may be issued by electronic means, in accordance with Title 58, Chapter 17b,
9303 Pharmacy Practice Act; and
- 9304 (c) may be filled by a person other than the veterinarian or physician issuing the
9305 prescription.
- 9306 (4) A retailer offering iodine matrix for sale:
- 9307 (a) shall store the iodine matrix so that the public does not have access to the iodine
9308 matrix without the direct assistance or intervention of a retail employee;
- 9309 (b) shall keep a record, which may consist of sales receipts, of each person purchasing
9310 iodine matrix; and
- 9311 (c) may, if necessary to ascertain the identity of the purchaser, ask for proof of
9312 identification from the purchaser.
- 9313 (5) A person engaging in a regulated transaction under Subsection (2) is guilty of a
9314 class B misdemeanor if the person, under circumstances not amounting to a violation of
9315 Subsection [58-37d-4\(1\)\(c\)](#), offers to sell, sells, or distributes an iodine matrix to a person who:
- 9316 (a) does not present a prescription or is not engaged in animal husbandry, as required
9317 under Subsection (2); or
- 9318 (b) is not excepted under Subsection (7).
- 9319 (6) A person is guilty of a class A misdemeanor who, under circumstances not
9320 amounting to a violation of Subsection [58-37c-3\(11\)\(k\)](#) or [58-37d-4\(1\)\(a\)](#):
- 9321 (a) possesses an iodine matrix without proof of obtaining the solution in compliance
9322 with Subsection (2); or
- 9323 (b) offers to sell, sells, or distributes an iodine matrix in violation of Subsection (2).
- 9324 (7) Subsection (6)(a) does not apply to:
- 9325 (a) a chemistry or chemistry-related laboratory maintained by:
- 9326 (i) a public or private regularly established secondary school; or
- 9327 (ii) a public or private institution of higher education that is accredited by a regional or

- 9328 national accrediting agency recognized by the United States Department of Education;
- 9329 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice
- 9330 Act;
- 9331 (c) a general acute hospital; or
- 9332 (d) a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer,
- 9333 warehouseman, or common carrier, or an agent of any of these persons who possesses an
- 9334 iodine matrix in the regular course of lawful business activities.
- 9335 Section 411. Section **63A-3-205** is amended to read:
- 9336 **63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.**
- 9337 (1) As used in this section, "revolving loan fund" means:
- 9338 (a) the Water Resources Conservation and Development Fund, created in Section
- 9339 [73-10-24](#);
- 9340 (b) the Water Resources Construction Fund, created in Section [73-10-8](#);
- 9341 (c) the Water Resources Cities Water Loan Fund, created in Section [73-10-22](#);
- 9342 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
- 9343 Fuels and Vehicle Technology Program Act;
- 9344 (e) the Water Development Security Fund and its subaccounts, created in Section
- 9345 [73-10c-5](#);
- 9346 (f) the Agriculture Resource Development Fund, created in Section [4-18-106](#);
- 9347 (g) the Utah Rural Rehabilitation Fund, created in Section [~~4-19-4~~] [4-19-105](#);
- 9348 (h) the Permanent Community Impact Fund, created in Section [35A-8-603](#);
- 9349 (i) the Petroleum Storage Tank Trust Fund, created in Section [19-6-409](#);
- 9350 (j) the Uintah Basin Revitalization Fund, created in Section [35A-8-1602](#);
- 9351 (k) the Navajo Revitalization Fund, created in Section [35A-8-1704](#); and
- 9352 (l) the Energy Efficiency Fund, created in Section [11-45-201](#).
- 9353 (2) The division shall for each revolving loan fund:
- 9354 (a) make rules establishing standards and procedures governing:
- 9355 (i) payment schedules and due dates;
- 9356 (ii) interest rate effective dates;
- 9357 (iii) loan documentation requirements; and
- 9358 (iv) interest rate calculation requirements; and

- 9359 (b) make an annual report to the Legislature containing:
- 9360 (i) the total dollars loaned by that fund during the last fiscal year;
- 9361 (ii) a listing of each loan currently more than 90 days delinquent, in default, or that was
9362 restructured during the last fiscal year;
- 9363 (iii) a description of each project that received money from that revolving loan fund;
- 9364 (iv) the amount of each loan made to that project;
- 9365 (v) the specific purpose for which the proceeds of the loan were to be used, if any;
- 9366 (vi) any restrictions on the use of the loan proceeds;
- 9367 (vii) the present value of each loan at the end of the fiscal year calculated using the
9368 interest rate paid by the state on the bonds providing the revenue on which the loan is based or,
9369 if that is unknown, on the average interest rate paid by the state on general obligation bonds
9370 issued during the most recent fiscal year in which bonds were sold; and
- 9371 (viii) the financial position of each revolving loan fund, including the fund's cash
9372 investments, cash forecasts, and equity position.
- 9373 Section 412. Section **63B-1b-102** is amended to read:
- 9374 **63B-1b-102. Definitions.**
- 9375 As used in this chapter:
- 9376 (1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness
9377 representing loans or grants made by an authorizing agency.
- 9378 (2) "Authorized official" means the state treasurer or other person authorized by a bond
9379 document to perform the required action.
- 9380 (3) "Authorizing agency" means the board, person, or unit with legal responsibility for
9381 administering and managing revolving loan funds.
- 9382 (4) "Bond document" means:
- 9383 (a) a resolution of the commission; or
- 9384 (b) an indenture or other similar document authorized by the commission that
9385 authorizes and secures outstanding revenue bonds from time to time.
- 9386 (5) "Commission" means the State Bonding Commission, created in Section
9387 [63B-1-201](#).
- 9388 (6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.
- 9389 (7) "Revolving Loan Funds" means:

- 9390 (a) the Water Resources Conservation and Development Fund, created in Section
 9391 [73-10-24](#);
- 9392 (b) the Water Resources Construction Fund, created in Section [73-10-8](#);
- 9393 (c) the Water Resources Cities Water Loan Fund, created in Section [73-10-22](#);
- 9394 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
 9395 Fuels and Vehicle Technology Program Act;
- 9396 (e) the Water Development Security Fund and its subaccounts, created in Section
 9397 [73-10c-5](#);
- 9398 (f) the Agriculture Resource Development Fund, created in Section [4-18-106](#);
- 9399 (g) the Utah Rural Rehabilitation Fund, created in Section [~~4-19-4~~] [4-19-105](#);
- 9400 (h) the Permanent Community Impact Fund, created in Section [35A-8-303](#);
- 9401 (i) the Petroleum Storage Tank Trust Fund, created in Section [19-6-409](#); and
- 9402 (j) the Transportation Infrastructure Loan Fund, created in Section [72-2-202](#).
- 9403 Section 413. Section **63B-1b-202** is amended to read:
- 9404 **63B-1b-202. Custodial officer -- Powers and duties.**
- 9405 (1) (a) There is created within the Division of Finance an officer responsible for the
 9406 care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust
 9407 documents, and other evidences of indebtedness:
- 9408 (i) owned or administered by the state or any of its agencies; and
- 9409 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.
- 9410 (b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not
 9411 responsible for the care, custody, safekeeping, collection, and accounting of a bond, note,
 9412 contract, trust document, or other evidence of indebtedness relating to the:
- 9413 (i) Agriculture Resource Development Fund, created in Section [4-18-106](#);
- 9414 (ii) Utah Rural Rehabilitation Fund, created in Section [~~4-19-4~~] [4-19-105](#);
- 9415 (iii) Petroleum Storage Tank Trust Fund, created in Section [19-6-409](#);
- 9416 (iv) Olene Walker Housing Loan Fund, created in Section [35A-8-502](#); and
- 9417 (v) Brownfields Fund, created in Section [19-8-120](#).
- 9418 (2) (a) Each authorizing agency shall deliver to this officer for the officer's care,
 9419 custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents,
 9420 and other evidences of indebtedness:

- 9421 (i) owned or administered by the state or any of its agencies; and
9422 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.
- 9423 (b) This officer shall:
- 9424 (i) establish systems, programs, and facilities for the care, custody, safekeeping,
9425 collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences
9426 of indebtedness submitted to the officer under this Subsection (2); and
- 9427 (ii) shall make available updated reports to each authorizing agency as to the status of
9428 loans under their authority.
- 9429 (3) The officer described in Section [63B-1b-201](#) shall deliver to the officer described in
9430 Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by the officer
9431 described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and other
9432 evidences of indebtedness closed as provided in Subsection [63B-1b-201](#)(2)(b).
- 9433 Section 414. Section **63E-1-102** is amended to read:
- 9434 **63E-1-102. Definitions -- List of independent entities.**
- 9435 As used in this title:
- 9436 (1) "Authorizing statute" means the statute creating an entity as an independent entity.
- 9437 (2) "Committee" means the Retirement and Independent Entities Committee created by
9438 Section [63E-1-201](#).
- 9439 (3) "Independent corporation" means a corporation incorporated in accordance with
9440 Chapter 2, Independent Corporations Act.
- 9441 (4) (a) "Independent entity" means an entity having a public purpose relating to the
9442 state or its citizens that is individually created by the state or is given by the state the right to
9443 exist and conduct its affairs as an:
- 9444 (i) independent state agency; or
9445 (ii) independent corporation.
- 9446 (b) "Independent entity" includes the:
- 9447 (i) Utah Dairy Commission created by Section [~~4-22-2~~] [4-22-103](#);
9448 (ii) Heber Valley Historic Railroad Authority created by Section [63H-4-102](#);
9449 (iii) Utah State Railroad Museum Authority created by Section [63H-5-102](#);
9450 (iv) Utah Housing Corporation created by Section [63H-8-201](#);
9451 (v) Utah State Fair Corporation created by Section [63H-6-103](#);

- 9452 (vi) Workers' Compensation Fund created by Section [31A-33-102](#);
- 9453 (vii) Utah State Retirement Office created by Section [49-11-201](#);
- 9454 (viii) School and Institutional Trust Lands Administration created by Section
- 9455 [53C-1-201](#);
- 9456 (ix) School and Institutional Trust Fund Office created by Section [53D-1-201](#);
- 9457 (x) Utah Communications Authority created by Section [~~[63N-6-201](#)~~] [63H-7a-201](#);
- 9458 (xi) Utah Energy Infrastructure Authority created by Section [63H-2-201](#);
- 9459 (xii) Utah Capital Investment Corporation created by Section [63N-6-301](#); and
- 9460 (xiii) Military Installation Development Authority created by Section [63H-1-201](#).
- 9461 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
- 9462 (i) the Public Service Commission of Utah created by Section [54-1-1](#);
- 9463 (ii) an institution within the state system of higher education;
- 9464 (iii) a city, county, or town;
- 9465 (iv) a local school district;
- 9466 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 9467 Districts; or
- 9468 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- 9469 (5) "Independent state agency" means an entity that is created by the state, but is
- 9470 independent of the governor's direct supervisory control.
- 9471 (6) "Money held in trust" means money maintained for the benefit of:
- 9472 (a) one or more private individuals, including public employees;
- 9473 (b) one or more public or private entities; or
- 9474 (c) the owners of a quasi-public corporation.
- 9475 (7) "Public corporation" means an artificial person, public in ownership, individually
- 9476 created by the state as a body politic and corporate for the administration of a public purpose
- 9477 relating to the state or its citizens.
- 9478 (8) "Quasi-public corporation" means an artificial person, private in ownership,
- 9479 individually created as a corporation by the state, which has accepted from the state the grant of
- 9480 a franchise or contract involving the performance of a public purpose relating to the state or its
- 9481 citizens.
- 9482 Section 415. Section **63I-4a-102** is amended to read:

- 9483 **63I-4a-102. Definitions.**
- 9484 (1) (a) "Activity" means to provide a good or service.
- 9485 (b) "Activity" includes to:
- 9486 (i) manufacture a good or service;
- 9487 (ii) process a good or service;
- 9488 (iii) sell a good or service;
- 9489 (iv) offer for sale a good or service;
- 9490 (v) rent a good or service;
- 9491 (vi) lease a good or service;
- 9492 (vii) deliver a good or service;
- 9493 (viii) distribute a good or service; or
- 9494 (ix) advertise a good or service.
- 9495 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 9496 (i) the state; or
- 9497 (ii) an entity of the state including a department, office, division, authority,
- 9498 commission, or board.
- 9499 (b) "Agency" does not include:
- 9500 (i) the Legislature;
- 9501 (ii) an entity or agency of the Legislature;
- 9502 (iii) the state auditor;
- 9503 (iv) the state treasurer;
- 9504 (v) the Office of the Attorney General;
- 9505 (vi) the Utah Dairy Commission created in Section [~~4-22-2~~] [4-22-103](#);
- 9506 (vii) the Heber Valley Historic Railroad Authority created in Section [63H-4-102](#);
- 9507 (viii) the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
- 9508 (ix) the Utah Housing Corporation created in Section [63H-8-201](#);
- 9509 (x) the Utah State Fair Corporation created in Section [63H-6-103](#);
- 9510 (xi) the Workers' Compensation Fund created in Section [31A-33-102](#);
- 9511 (xii) the Utah State Retirement Office created in Section [49-11-201](#);
- 9512 (xiii) a charter school chartered by the State Charter School Board or a board of
- 9513 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter

- 9514 Schools Act;
- 9515 (xiv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
- 9516 Utah Schools for the Deaf and the Blind;
- 9517 (xv) an institution of higher education as defined in Section [53B-3-102](#);
- 9518 (xvi) the School and Institutional Trust Lands Administration created in Section
- 9519 [53C-1-201](#);
- 9520 (xvii) the Utah Communications Authority created in Section [63H-7a-201](#); or
- 9521 (xviii) the Utah Capital Investment Corporation created in Section [63N-6-301](#).
- 9522 (3) "Agency head" means the chief administrative officer of an agency.
- 9523 (4) "Board" means the Free Market Protection and Privatization Board created in
- 9524 Section [63I-4a-202](#).
- 9525 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
- 9526 or in part from a private enterprise.
- 9527 (6) "Local entity" means:
- 9528 (a) a political subdivision of the state, including a:
- 9529 (i) county;
- 9530 (ii) city;
- 9531 (iii) town;
- 9532 (iv) local school district;
- 9533 (v) local district; or
- 9534 (vi) special service district;
- 9535 (b) an agency of an entity described in this Subsection (6), including a department,
- 9536 office, division, authority, commission, or board; or
- 9537 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
- 9538 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 9539 (7) "Private enterprise" means a person that engages in an activity for profit.
- 9540 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
- 9541 private enterprise engages in the activity, including a transfer by:
- 9542 (a) contract;
- 9543 (b) transfer of property; or
- 9544 (c) another arrangement.

- 9545 (9) "Special district" means:
- 9546 (a) a local district, as defined in Section [17B-1-102](#);
- 9547 (b) a special service district, as defined in Section [17D-1-102](#); or
- 9548 (c) a conservation district, as defined in Section [17D-3-102](#).
- 9549 Section 416. Section **63J-7-102** is amended to read:
- 9550 **63J-7-102. Scope and applicability of chapter.**
- 9551 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
- 9552 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
- 9553 this chapter apply to each agency and govern each grant received on or after May 5, 2008.
- 9554 (2) This chapter does not govern:
- 9555 (a) a grant deposited into a General Fund restricted account;
- 9556 (b) a grant deposited into a Trust and Agency Fund as defined in Section [51-5-4](#);
- 9557 (c) a grant deposited into an Enterprise Fund as defined in Section [51-5-4](#);
- 9558 (d) a grant made to the state without a restriction or other designated purpose that is
- 9559 deposited into the General Fund as free revenue;
- 9560 (e) a grant made to the state that is restricted only to "education" and that is deposited
- 9561 into the Education Fund or Uniform School Fund as free revenue;
- 9562 (f) in-kind donations;
- 9563 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
- 9564 when required by state law or application of state law;
- 9565 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
- 9566 Contribution Act;
- 9567 (i) a grant received by an agency from another agency or political subdivision;
- 9568 (j) a grant to the Utah Dairy Commission created in Section [~~4-22-2~~] [4-22-103](#);
- 9569 (k) a grant to the Heber Valley Historic Railroad Authority created in Section
- 9570 [63H-4-102](#);
- 9571 (l) a grant to the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
- 9572 (m) a grant to the Utah Housing Corporation created in Section [63H-8-201](#);
- 9573 (n) a grant to the Utah State Fair Corporation created in Section [63H-6-103](#);
- 9574 (o) a grant to the Workers' Compensation Fund created in Section [31A-33-102](#);
- 9575 (p) a grant to the Utah State Retirement Office created in Section [49-11-201](#);

9576 (q) a grant to the School and Institutional Trust Lands Administration created in
9577 Section 53C-1-201;

9578 (r) a grant to the Utah Communications Authority created in Section 63H-7a-201;

9579 (s) a grant to the Medical Education Program created in Section 53B-24-202;

9580 (t) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

9581 (u) a grant to the Utah Charter School Finance Authority created in Section

9582 53A-20b-103;

9583 (v) a grant to the State Building Ownership Authority created in Section 63B-1-304;

9584 (w) a grant to the Utah Comprehensive Health Insurance Pool created in Section

9585 31A-29-104; or

9586 (x) a grant to the Military Installation Development Authority created in Section

9587 63H-1-201.

9588 (3) An agency need not seek legislative review or approval of grants under Part 2,
9589 Grant Approval Requirements, if:

9590 (a) the governor has declared a state of emergency; and

9591 (b) the grant is donated to the agency to assist victims of the state of emergency under

9592 Subsection 53-2a-204(1).

9593 Section 417. Section 63L-8-403 is amended to read:

9594 **63L-8-403. Grazing permits and leases.**

9595 (1) (a) Except as provided in Subsection (2), permits and leases for domestic livestock
9596 grazing on public land issued by the director may not exceed a term of five years, subject to
9597 terms and conditions the director determines to be appropriate and consistent with this chapter.

9598 (b) The director shall have authority to cancel, suspend, or modify a grazing permit or
9599 lease, in whole or in part:

9600 (i) pursuant to the terms and conditions of the permit or lease;

9601 (ii) for any violation of:

9602 (A) this chapter or a grazing rule implemented under this chapter; or

9603 (B) any term or condition of the grazing permit or lease; or

9604 (iii) to protect rangeland health from overutilization pursuant to Subsection (7).

9605 (2) The holder of an expiring permit or lease shall be given first priority for receipt of

9606 the new permit or lease, provided:

9607 (a) the land for which the permit or lease is issued remains available for domestic
9608 livestock grazing in accordance with a land use plan prepared pursuant to Section [63L-8-202](#);

9609 (b) the permittee or lessee is in compliance with:

9610 (i) the provisions of this chapter and the grazing rules issued by the DLM, in
9611 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

9612 (ii) the terms and conditions in the permit or lease specified by the director;

9613 (c) the permittee or lessee accepts the terms and conditions included by the director in
9614 the new permit or lease; and

9615 (d) range conditions on the tract of public land are sufficient to support continued
9616 livestock grazing, as determined by the director pursuant to Subsection (7).

9617 (3) All permits and leases for domestic livestock grazing issued under this part may be
9618 incorporated in an allotment management plan developed by the director.

9619 (4) (a) If the director elects to develop an allotment management plan for a given area,
9620 the director shall do so in consultation, cooperation, and coordination with:

9621 (i) the lessees, permittees, and landowners involved;

9622 (ii) the commissioner;

9623 (iii) the State Grazing Advisory Board established under Section [~~4-20-1.5~~] [4-20-103](#);

9624 and

9625 (iv) the political subdivision having land within the area covered by the proposed
9626 allotment management plan.

9627 (b) An allotment management plan shall be:

9628 (i) tailored to the specific range condition of the area covered by the plan; and

9629 (ii) reviewed on a periodic basis to determine:

9630 (A) the efficacy of the plan in improving range conditions on the involved land; and

9631 (B) whether the land can be better managed.

9632 (5) The director may revise or terminate plans, or develop new plans, after review and
9633 consideration, consultation, cooperation, and coordination with the parties listed in Subsection
9634 (4)(a).

9635 (6) (a) In all cases where the director has not completed an allotment management plan
9636 or determines that an allotment management plan is not necessary for management of livestock
9637 operations, the director shall incorporate in grazing permits and leases all necessary terms and

9638 conditions for the appropriate management of the permitted or leased land.

9639 (b) The director, in consultation with the commissioner:

9640 (i) shall specify the number of animals to be grazed and the seasons of use; and

9641 (ii) may reexamine the condition of the range and forage utilization at any time.

9642 (7) If the director finds that the condition of the range requires adjustment in the
9643 amount or other aspect of grazing use, the permittee or lessee shall adjust the permittee or
9644 lessee's use to the extent required by the director.

9645 (8) An allotment management plan may not refer to livestock operations or range
9646 improvements on non-public land, except where the non-public land is intermingled with
9647 public land and the consent of the owner of the non-public land and the permittee or lessee
9648 involved with the plan is obtained.

9649 (9) (a) Whenever a permit or lease for grazing domestic livestock on public land is
9650 canceled, in whole or in part, in order to devote the land covered by the permit or lease to
9651 another public purpose, the permittee or lessee shall receive from the state reasonable
9652 compensation for the adjusted value, to be determined by the director, of the permittee's or
9653 lessee's interest in authorized permanent improvements placed or constructed by the permittee
9654 or lessee on lands covered by such permit or lease.

9655 (b) The compensation described in Subsection (9)(a) may not exceed the fair market
9656 value of the terminated portion of the permittee's or lessee's interest.

9657 (10) Except in cases of emergency, no permit or lease shall be canceled under this
9658 subsection without one year's notification.

9659 Section 418. Section **72-7-401** is amended to read:

9660 **72-7-401. Application of size, weight, and load limitations for vehicles --**

9661 **Exceptions.**

9662 (1) (a) Except as provided in Subsection (2), the maximum size, weight, and load
9663 limitations on vehicles under this part apply to all highways throughout the state.

9664 (b) Local authorities may not alter the limitations except as expressly provided under
9665 Sections [41-6a-204](#) and [72-7-408](#).

9666 (2) Except as specifically made applicable, the size, weight, and load limitations in this
9667 chapter do not apply to:

9668 (a) fire-fighting apparatus;

- 9669 (b) highway construction and maintenance equipment being operated at the site of
9670 maintenance or at a construction project as authorized by a highway authority;
- 9671 (c) highway construction and maintenance equipment temporarily being operated
9672 between a material site and a highway maintenance site or a highway construction project if:
9673 (i) the section of any highway being used is not located within a county of the first or
9674 second class;
- 9675 (ii) authorized for a specific highway project by the highway authority having
9676 jurisdiction over each highway being used;
- 9677 (iii) the distance between the material site and maintenance site or highway
9678 construction project does not exceed 10 miles; and
- 9679 (iv) the operator carries in the vehicle written verification of the authorization from the
9680 highway authority having jurisdiction over each highway being used;
- 9681 (d) implements of husbandry incidentally moved on a highway while engaged in an
9682 agricultural operation or incidentally moved for repair or servicing, subject to the provisions of
9683 Section [72-7-407](#);
- 9684 (e) vehicles transporting logs or poles from forest to sawmill:
- 9685 (i) when required to move upon a highway other than the national system of interstate
9686 and defense highways;
- 9687 (ii) if the gross vehicle weight does not exceed 80,000 pounds; and
9688 (iii) the vehicle or combination of vehicles are in compliance with Subsections
9689 [72-7-404](#)(1) and (2)(a); and
- 9690 (f) tow trucks or towing vehicles under emergency conditions when:
- 9691 (i) it becomes necessary to move a vehicle, combination of vehicles, special mobile
9692 equipment, or objects to the nearest safe area for parking or temporary storage;
- 9693 (ii) no other alternative is available; and
9694 (iii) the movement is for the safety of the traveling public.
- 9695 (3) (a) Except when operating on the national system of interstate and defense
9696 highways, a motor vehicle carrying livestock as defined in Section [~~4-1-8~~] [4-1-109](#), or a motor
9697 vehicle carrying raw grain if the grain is being transported by the farmer from his farm to
9698 market prior to bagging, weighing, or processing, may exceed by up to 2,000 pounds the
9699 tandem axle weight limitations specified under Section [72-7-404](#) without obtaining an

9700 overweight permit under Section [72-7-406](#).

9701 (b) Subsection (3)(a) is an exception to Sections [72-7-404](#) and [72-7-406](#).

9702 Section 419. Section **72-9-502** is amended to read:

9703 **72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions --**
9704 **Rulemaking -- By-pass permits.**

9705 (1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross
9706 vehicle weight of 10,001 pounds or more or any motor vehicle carrying livestock as defined in
9707 Section [~~4-24-2~~] [4-24-102](#) shall stop at a port-of-entry as required under this section.

9708 (2) The department may erect and maintain signs directing motor vehicles to a
9709 port-of-entry as provided in this section.

9710 (3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt
9711 from this section if:

9712 (a) the total one-way trip distance for the motor vehicle would be increased by more
9713 than 5% or three miles, whichever is greater if diverted to a port-of-entry; or

9714 (b) the motor vehicle is operating under a temporary port-of-entry by-pass permit
9715 issued under Subsection (4).

9716 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
9717 the department shall make rules for the issuance of a temporary port-of-entry by-pass permit
9718 exempting a motor vehicle from the provisions of Subsection (1) if the department determines
9719 that the permit is needed to accommodate highway transportation needs due to multiple daily or
9720 weekly trips in the proximity of a port-of-entry.

9721 (b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a
9722 motor carrier for multiple motor vehicles.

9723 Section 420. Section **73-20-2** is amended to read:

9724 **73-20-2. Definitions.**

9725 As used in this [~~act~~] chapter:

9726 (1) "Advisory board" means the Agricultural Advisory Board created by Section
9727 [~~4-2-7~~] [4-2-108](#).

9728 [~~(5)~~] (2) "Basic livestock" means a herd of cattle, sheep, or swine kept and maintained
9729 primarily for breeding purposes.

9730 [~~(2)~~] (3) "Board" means the Board of Water Resources created by Section [73-10-1.5](#).

9731 [~~(3)~~] (4) "Commercial farm" means a tract or tracts of land with or without
 9732 improvements recognized as a farm or ranch in this state which is owned and operated or
 9733 leased and operated by the applicant, and used in the production and raising of basic livestock.

9734 [~~(4)~~] (5) "Farmer" means any person who owns and operates or leases and operates a
 9735 commercial farm in this state, and includes individuals, partnerships and corporations.

9736 Section 421. Section **76-6-111** is amended to read:

9737 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**
 9738 **Seizure and disposition of property.**

9739 (1) As used in this section:

9740 (a) "Law enforcement officer" means the same as that term is defined in Section
 9741 [53-13-103](#).

9742 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,
 9743 including:

9744 (i) cattle;

9745 (ii) sheep;

9746 (iii) goats;

9747 (iv) swine;

9748 (v) horses;

9749 (vi) mules;

9750 (vii) poultry; and

9751 (viii) domesticated elk as defined in Section [4-39-102](#).

9752 (2) Unless authorized by Section [~~4-25-4, 4-25-5, 4-25-14;~~] [4-25-201](#), [4-25-202](#),
 9753 [4-25-402](#), [4-39-401](#), or [18-1-3](#), a person is guilty of wanton destruction of livestock if that
 9754 person:

9755 (a) injures, physically alters, releases, or causes the death of livestock; and

9756 (b) does so:

9757 (i) intentionally or knowingly; and

9758 (ii) without the permission of the owner of the livestock.

9759 (3) Wanton destruction of livestock is punishable as a:

9760 (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

9761 (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but

9762 does not exceed \$1,500;

9763 (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but
9764 does not exceed \$5,000; and

9765 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.

9766 (4) When a court orders a person who is convicted of wanton destruction of livestock
9767 to pay restitution under Title 77, Chapter 38a, Crime Victims Restitution Act, the court shall
9768 consider, in addition to the restitution criteria in Section [77-38a-302](#), the restitution guidelines
9769 in Subsection (5) when setting the amount.

9770 (5) The minimum restitution value for cattle and sheep is the sum of the following,
9771 unless the court states on the record why it finds the sum to be inappropriate:

9772 (a) the fair market value of the animal, using as a guide the market information
9773 obtained from the Department of Agriculture and Food created under Section [~~4-2-1~~] [4-2-102](#);
9774 and

9775 (b) 10 years times the average annual value of offspring, for which average annual
9776 value is determined using data obtained from the National Agricultural Statistics Service within
9777 the United States Department of Agriculture, for the most recent 10-year period available.

9778 (6) A material, device, or vehicle used in violation of Subsection (2) is subject to
9779 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
9780 and Disposition of Property Act.

9781 (7) A peace officer may seize a material, device, or vehicle used in violation of
9782 Subsection (2):

9783 (a) upon notice and service of process issued by a court having jurisdiction over the
9784 property; or

9785 (b) without notice and service of process if:

9786 (i) the seizure is incident to an arrest under:

9787 (A) a search warrant; or

9788 (B) an inspection under an administrative inspection warrant;

9789 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of
9790 the state in a criminal injunction or forfeiture proceeding under this section; or

9791 (iii) the peace officer has probable cause to believe that the property has been used in
9792 violation of Subsection (2).

9793 (8) (a) A material, device, or vehicle seized under this section is not repleviable but is
9794 in custody of the law enforcement agency making the seizure, subject only to the orders and
9795 decrees of a court or official having jurisdiction.

9796 (b) A peace officer who seizes a material, device, or vehicle under this section may:

9797 (i) place the property under seal;

9798 (ii) remove the property to a place designated by the warrant under which it was seized;

9799 or

9800 (iii) take custody of the property and remove it to an appropriate location for

9801 disposition in accordance with law.

9802 Section 422. Section **78B-4-202** is amended to read:

9803 **78B-4-202. Equine and livestock activity liability limitations.**

9804 (1) It shall be presumed that participants in equine or livestock activities are aware of
9805 and understand that there are inherent risks associated with these activities.

9806 (2) An equine activity sponsor, equine professional, livestock activity sponsor, or
9807 livestock professional is not liable for an injury to or the death of a participant due to the
9808 inherent risks associated with these activities, unless the sponsor or professional:

9809 (a) (i) provided the equipment or tack;

9810 (ii) the equipment or tack caused the injury; and

9811 (iii) the equipment failure was due to the sponsor's or professional's negligence;

9812 (b) failed to make reasonable efforts to determine whether the equine or livestock
9813 could behave in a manner consistent with the activity with the participant;

9814 (c) owns, leases, rents, or is in legal possession and control of land or facilities upon
9815 which the participant sustained injuries because of a dangerous condition which was known to
9816 or should have been known to the sponsor or professional and for which warning signs have
9817 not been conspicuously posted;

9818 (d) (i) commits an act or omission that constitutes negligence, gross negligence, or
9819 willful or wanton disregard for the safety of the participant; and

9820 (ii) that act or omission causes the injury; or

9821 (e) intentionally injures or causes the injury to the participant.

9822 (3) This chapter does not prevent or limit the liability of an equine activity sponsor, an
9823 equine professional, a livestock activity sponsor, or a livestock professional who is:

9824 (a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an
9825 action to recover for damages incurred in the course of providing professional treatment of an
9826 equine;

9827 (b) liable under Title 4, Chapter 25, [~~Estraying and Trespassing Animals~~] Estrays; or

9828 (c) liable under Title 78B, Chapter 6, Part 7, Utah Product Liability Act.

9829 Section 423. **Repealer.**

9830 This bill repeals:

9831 Section **4-11-15, Wax-salvage operations -- County bee inspector to supervise**
9832 **compliance with rules -- Salvage procedures specified.**

9833 Section **4-18-109, Public lands wildfire study and analysis -- Report.**

9834 Section **4-25-10, Bulls -- Number required on range during breeding season.**

9835 Section **4-25-11, Determination and enforcement of bull running policy by range**
9836 **association.**

9837 Section **4-31-117, State chemist -- Assistance in diagnosis of disease.**

9838 Section **4-36-1, Compact enacted and entered into.**

9839 Section **4-36-2, Cooperation with Pest Control Insurance Fund.**

9840 Section **4-36-3, Filing of compact.**

9841 Section **4-36-4, Compact administrator.**

9842 Section **4-36-5, Applications for assistance.**

9843 Section **4-36-6, Disposition of money from compact insurance fund.**

9844 Section **4-36-7, Executive head defined.**

9845 Section 424. **Effective date.**

9846 This bill takes effect on July 1, 2018.