

4-1-4 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
 - (b) obtain a sample of an agricultural product at no charge to the department, unless otherwise specified in this title.
- (2) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry to the premises to inspect or obtain a sample.
- (3)
 - (a) The department is authorized in a court of competent jurisdiction to:
 - (i) seek an order of seizure or condemnation of an agricultural product that violates this title; or
 - (ii) upon proper grounds, obtain a temporary restraining order or temporary or permanent injunction to prevent violation of this title.
 - (b) The court may not require a bond of the department in an injunctive proceeding brought under this section.
- (4)
 - (a) If the court orders condemnation, the department shall dispose of the agricultural product as the court directs.
 - (b) The court may not order condemnation without giving the claimant of the agricultural product an opportunity to apply to the court for permission to:
 - (i) bring the agricultural product into conformance; or
 - (ii) remove the agricultural product from the state.
- (5) If the department prevails in an action authorized by Subsection (3)(a), the court shall award court costs, fees, storage, and other costs to the department.
- (6)
 - (a) Unless otherwise specifically provided by this title, the county attorney of the county in which the product is located or the act committed shall represent the department in an action commenced under authority of this section.
 - (b) The attorney general shall represent the department in an action to enforce:
 - (i) Chapter 3, Utah Dairy Act; or
 - (ii) Chapter 5, Utah Wholesome Food Act.
- (7)
 - (a) In a criminal action brought by the department for violation of this title, the county attorney or district attorney in the county in which the alleged criminal activity occurs shall represent the state.
 - (b) Before the department pursues a criminal action, the department shall first give to the person it intends to have charged:
 - (i) written notice of its intent to file criminal charges; and
 - (ii) an opportunity to present, personally or through counsel, the person's views with respect to the contemplated action.
- (8) A witness subpoenaed by the department for whatever purpose is entitled to:
 - (a) a witness fee for each day of required attendance at a proceeding initiated by the department; and
 - (b) mileage in accordance with the fees and mileage allowed a witness appearing in a district court of this state.

Amended by Chapter 156, 2008 General Session