

DEPARTMENT OF AGRICULTURE AND FOOD

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kerry W. Gibson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the Department of Agriculture and Food.

Highlighted Provisions:

This bill:

- ▶ expands the types of actions for which the department may receive court costs and fees;
- ▶ requires the attorney general to represent the department in an action enforcing the Utah Dairy Act and the Utah Wholesome Food Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-1-4, as last amended by Laws of Utah 2007, Chapter 179

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

Section 1. Section **4-1-4** is amended to read:



28 **4-1-4. Code enforcement -- Inspection authorized -- Condemnation or seizure --**
29 **Injunctive relief -- Costs awarded -- County or district attorney to represent state --**
30 **Criminal actions -- Witness fee.**

31 (1) [~~For the purpose of enforcing any~~] To enforce a provision in this title, the
32 department may:

33 (a) enter, at reasonable times, and inspect [~~any~~] a public or private premises where an
34 agricultural [~~products are~~] product is located; and

35 (b) obtain [~~samples of products~~] a sample of an agricultural product at no charge to the
36 department, unless otherwise specified in this title.

37 (2) The department may proceed immediately, if admittance is refused, to obtain an ex
38 parte warrant from the nearest court of competent jurisdiction to allow entry [~~upon~~] to the
39 premises [~~for the purpose of making inspections and obtaining samples~~] to inspect or obtain a
40 sample.

41 (3) (a) The department is authorized in [~~any~~] a court of competent jurisdiction to:

42 (i) seek an order of seizure or condemnation of [~~any~~] an agricultural product that
43 violates this title; or

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

46 (b) [~~No bond shall be required~~] The court may not require a bond of the department in
47 [~~any~~] an injunctive proceeding brought under this section.

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

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

52 (i) bring the agricultural product into conformance; or [~~for permission to~~]

53 (ii) remove [it] the agricultural product from the state.

54 (5) If the [~~court orders condemnation~~] department prevails in an action authorized by
55 Subsection (3)(a), the court shall award court costs, fees, storage, and other costs to the
56 department.

57 (6) (a) Unless otherwise specifically provided [~~within the particular chapter governing~~
58 ~~the product sought to be seized or condemned or the conduct sought to be enjoined~~] by this

59 title, the county attorney of the county in which the product is located or the act committed
60 shall represent the department in [~~any~~] an action commenced under authority of this section.

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

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

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

64 (7) (a) In [~~any~~] a criminal action brought by the department for violation of this title,
65 the county attorney or district attorney in the county in which the alleged criminal activity
66 [~~occurred~~] occurs shall represent the state.

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

69 (i) written notice of its intent to file criminal charges [~~to the person it intends to~~
70 ~~charge~~]; and [~~give the person~~]

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

73 (8) [~~Any~~] A witness subpoenaed by the department for whatever purpose is entitled to:

74 (a) a witness fee for each day of required attendance at [~~proceedings~~] a proceeding
75 initiated by the department; and

76 (b) mileage in accordance with the fees and mileage allowed [~~witnesses~~] a witness
77 appearing in [~~the~~] a district [~~courts~~] court of this state.

Legislative Review Note
as of 1-14-08 10:09 AM

Office of Legislative Research and General Counsel

H.B. 125 - Department of Agriculture and Food Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
