

1                    **DEPARTMENT OF AGRICULTURE AND FOOD**

2                                    **AMENDMENTS**

3    2008 GENERAL SESSION

4    STATE OF UTAH

5                                    **Chief Sponsor: Kerry W. Gibson**

6                                    Senate Sponsor: Darin G. Peterson

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8                    **LONG TITLE**

9                    **General Description:**

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

11                    **Highlighted Provisions:**

12                    This bill:

13                    ▶ expands the types of actions for which the department may receive court costs and  
14 fees;

15                    ▶ requires the attorney general to represent the department in an action enforcing the  
16 Utah Dairy Act and the Utah Wholesome Food Act;

17                    ▶ adds the director of the School and Institutional Trust Lands Administration to the  
18 Conservation Commission;

19                    ▶ authorizes a regional grazing board to elect a treasurer;

20                    ▶ requires a regional grazing board treasurer to post a bond; and

21                    ▶ makes technical changes.

22                    **Monies Appropriated in this Bill:**

23                    None

24                    **Other Special Clauses:**

25                    None

26                    **Utah Code Sections Affected:**

27                    AMENDS:

28                    **4-1-4**, as last amended by Laws of Utah 2007, Chapter 179

29                    **4-18-4**, as last amended by Laws of Utah 2007, Chapter 179

30 4-20-1.6, as last amended by Laws of Utah 2007, Chapter 179



31  
32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **4-1-4. Code enforcement -- Inspection authorized -- Condemnation or seizure --**  
35 **Injunctive relief -- Costs awarded -- County or district attorney to represent state --**  
36 **Criminal actions -- Witness fee.**

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

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

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

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

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

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

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

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

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

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

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

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

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

63 (6) (a) Unless otherwise specifically provided ~~[within the particular chapter governing~~  
 64 ~~the product sought to be seized or condemned or the conduct sought to be enjoined]~~ by this  
 65 title, the county attorney of the county in which the product is located or the act committed  
 66 shall represent the department in ~~[any]~~ an action commenced under authority of this section.

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

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

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

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

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

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

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

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

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

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

84 Section 2. Section **4-18-4** is amended to read:

85 **4-18-4. Conservation Commission created -- Composition -- Appointment --**

86 **Terms -- Compensation -- Attorney general to provide legal assistance.**

87 (1) There is created within the department the Conservation Commission to perform the  
88 functions specified in this chapter.

89 (2) The Conservation Commission shall be comprised of [~~15~~] 16 members, including:

90 (a) the director of the Extension Service at Utah State University or the director's  
91 designee;

92 (b) the president of the Utah Association of Conservation Districts or the president's  
93 designee;

94 (c) the commissioner or the commissioner's designee;

95 (d) the executive director of the Department of Natural Resources or the executive  
96 director's designee;

97 (e) the executive director of the Department of Environmental Quality or the executive  
98 director's designee;

99 (f) the chair and the vice chair of the State Grazing Advisory Board created in Section  
100 4-20-1.5;

101 (g) the president of the County Weed Supervisors Association; [~~and~~]

102 (h) seven district supervisors who provide district representation on the commission on  
103 a multicounty basis[-]; and

104 (i) the director of the School and Institutional Trust Lands Administration or the  
105 director's designee.

106 (3) If a district supervisor is unable to attend a meeting, an alternate may serve in the  
107 place of the district supervisor for that meeting.

108 (4) The members of the commission specified in Subsection (2)(h) shall:

109 (a) be recommended by the commission to the governor; and

110 (b) be appointed by the governor with the consent of the Senate.

111 (5) (a) Except as required by Subsection (5)(b), as terms of current commission  
112 members expire, the governor shall appoint each new member or reappointed member to a  
113 four-year term.

114 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the  
115 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
116 commission members are staggered so that approximately half of the commission is appointed  
117 every two years.

118 (6) When a vacancy occurs in the membership for any reason, the replacement shall be  
119 appointed for the unexpired term.

120 (7) The commissioner is chair of the commission.

121 (8) Attendance of a majority of the commission members at a meeting constitutes a  
122 quorum.

123 (9) (a) (i) A member who is not a government employee may not receive compensation  
124 or benefits for the member's service, but may receive per diem and expenses incurred in the  
125 performance of the member's official duties at the rates established by the Division of Finance  
126 under Sections 63A-3-106 and 63A-3-107.

127 (ii) A member may decline to receive per diem and expenses for the member's service.

128 (b) (i) A state government officer and employee member who does not receive salary,  
129 per diem, or expenses from the agency the member represents for the member's service may  
130 receive per diem and expenses incurred in the performance of the member's official duties at the  
131 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

132 (ii) A state government officer and employee member may decline to receive per diem  
133 and expenses for the member's service.

134 (c) (i) A higher education member who does not receive salary, per diem, or expenses  
135 from the entity that the member represents for the member's service may receive per diem and  
136 expenses incurred in the performance of the member's official duties from the committee at the  
137 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

138 (ii) A higher education member may decline to receive per diem and expenses for the  
139 member's service.

140 (d) (i) A local government member who does not receive salary, per diem, or expenses  
141 from the entity that the member represents for the member's service may receive per diem and

142 expenses incurred in the performance of the member's official duties at the rates established by  
143 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

144 (ii) A local government member may decline to receive per diem and expenses for the  
145 member's service.

146 (10) The commission shall keep a record of its actions.

147 (11) The attorney general shall provide legal services to the commission upon request.

148 Section 3. Section 4-20-1.6 is amended to read:

149 **4-20-1.6. Regional Grazing Advisory Boards -- Duties.**

150 (1) The commissioner shall appoint members to a regional board for each grazing  
151 district from nominations submitted by:

152 (a) the Utah Cattlemen's Association;

153 (b) the Utah Woolgrower's Association;

154 (c) the Utah Farm Bureau Federation; and

155 (d) a conservation district, if the conservation district's boundaries include some portion  
156 of the grazing district.

157 (2) Regional boards:

158 (a) shall provide advice and recommendations to the state board; and

159 (b) may receive monies from the Rangeland Improvement Fund created in Section  
160 4-20-2.

161 (3) If a regional board receives monies as authorized by Subsection (2)(b), the regional  
162 board shall elect a treasurer to expend the monies:

163 (a) as directed by the regional board; and

164 (b) in accordance with Section 4-20-3.

165 (4) (a) A treasurer elected in accordance with Subsection (3) shall, for the faithful  
166 performance of the treasurer's official duties, file with the department:

167 (i) a \$5,000 corporate surety bond; or

168 (ii) a \$10,000 personal surety bond.

169 (b) The regional board shall pay the premium for the bond required by Subsection

170 (4)(a) from the monies received under Subsection (2)(b).