

Representative Kerry W. Gibson proposes the following substitute bill:

DEPARTMENT OF AGRICULTURE AND FOOD

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kerry W. Gibson

Senate Sponsor: Darin G. Peterson

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;
- ▶ authorizes a regional grazing board to elect a treasurer;
- ▶ requires a regional grazing board treasurer to post a bond; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 4-1-4, as last amended by Laws of Utah 2007, Chapter 179

27 4-20-1.6, as last amended by Laws of Utah 2007, Chapter 179

28

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

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

31 **4-1-4. Code enforcement -- Inspection authorized -- Condemnation or seizure --**

32 **Injunctive relief -- Costs awarded -- County or district attorney to represent state --**

33 **Criminal actions -- Witness fee.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

81 Section 2. Section **4-20-1.6** is amended to read:

82 **4-20-1.6. Regional Grazing Advisory Boards -- Duties.**

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

85 (a) the Utah Cattlemen's Association;

86 (b) the Utah Woolgrower's Association;

87 (c) the Utah Farm Bureau Federation; and

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

90 (2) Regional boards:

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

92 (b) may receive monies from the Rangeland Improvement Fund created in Section
93 4-20-2.

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

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

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

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

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

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

102 (b) The regional board shall pay the premium for the bond required by Subsection
103 (4)(a) from the monies received under Subsection (2)(b).

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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 will require each of the five regional boards to pay \$100 per year for the bonds required in this bill.
