

Representative Bill Wright proposes the following substitute bill:

AGRICULTURE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Ronda Rudd Menlove

LONG TITLE

General Description:

This bill makes changes to programs and duties of the Department of Agriculture and Food, including the Conservation Commission.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the department to participate in an agricultural mediation program;
- ▶ requires the department to promote and support multiple use of public lands, including acting as a mediator concerning public lands issues;
- ▶ allows the commissioner to establish advisory committees with the permission of the governor;
- ▶ limits the scope of Title 4, Chapter 7, Agricultural Products and Livestock Dealers' Act, to livestock-related concerns and makes related changes to that chapter;
- ▶ eliminates a provision for the department to grant an annual license, instead of a triennial license, to a pesticide dealer;
- ▶ allows the department to use dedicated credits for improving rangeland health;
- ▶ allows the department to use certain restricted account money for the purchase of a conservation easement;



- 26 ▶ changes a provision that decreases payment of the Beef Promotion Fee by the
- 27 amount of a federal beef promotion assessment to require the payment of both fees;
- 28 ▶ states legislative findings regarding the local production of food and the importance
- 29 of agriculture to the state;
- 30 ▶ requires the state to offer a "certification of environmental stewardship" to
- 31 qualifying agricultural producers in the state;
- 32 ▶ gives new duties to the Conservation Commission, including:
- 33 • expanding the use of certain loan funds;
- 34 • developing the requirements of the certification of environmental stewardship,
- 35 including determining best management practices, state technical standards, and
- 36 nutrient management plans;
- 37 • providing certifications of environmental stewardship to qualifying agricultural
- 38 producers in the state; and
- 39 • developing the requirements to be a "certified conservation planner";
- 40 ▶ grants rulemaking authority to the commission;
- 41 ▶ changes the definition of "farm custom mobile unit";
- 42 ▶ removes the requirement that a person who raises an animal may only slaughter an
- 43 animal without a farm custom slaughter license if the animal is slaughtered on
- 44 property owned by the person; and
- 45 ▶ makes technical changes.

46 **Money Appropriated in this Bill:**

47 None

48 **Other Special Clauses:**

49 None

50 **Utah Code Sections Affected:**

51 AMENDS:

52 **4-2-2**, as last amended by Laws of Utah 2010, Chapter 391

53 **4-2-8**, as last amended by Laws of Utah 2010, Chapter 286

54 **4-7-1**, as last amended by Laws of Utah 1995, Chapter 41

55 **4-7-2**, as enacted by Laws of Utah 1979, Chapter 2

56 **4-7-3**, as last amended by Laws of Utah 2003, Chapter 85

- 57 4-7-5, as last amended by Laws of Utah 1995, Chapter 41
- 58 4-7-7, as last amended by Laws of Utah 1995, Chapter 41
- 59 4-7-8, as last amended by Laws of Utah 2010, Chapter 378
- 60 4-7-9, as last amended by Laws of Utah 2003, Chapters 84 and 85
- 61 4-7-10, as last amended by Laws of Utah 1995, Chapter 41
- 62 4-7-11, as last amended by Laws of Utah 2010, Chapter 378
- 63 4-7-12, as last amended by Laws of Utah 1990, Chapter 25
- 64 4-7-13, as last amended by Laws of Utah 1995, Chapter 41
- 65 4-7-14, as last amended by Laws of Utah 1995, Chapter 41
- 66 4-14-3, as last amended by Laws of Utah 2010, Chapters 378 and 391
- 67 4-18-2, as enacted by Laws of Utah 1979, Chapter 2
- 68 4-18-3, as last amended by Laws of Utah 2008, Chapter 360
- 69 4-18-5, as last amended by Laws of Utah 2008, Chapters 360 and 382
- 70 4-20-3, as last amended by Laws of Utah 2010, Chapter 278
- 71 4-21-3, as last amended by Laws of Utah 2002, Chapter 256
- 72 4-32-3, as last amended by Laws of Utah 2010, Chapters 242 and 378
- 73 4-32-4, as last amended by Laws of Utah 2010, Chapters 242 and 324

74 ENACTS:

75 4-20-10, Utah Code Annotated 1953



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

78 Section 1. Section 4-2-2 is amended to read:

79 **4-2-2. Functions, powers, and duties of department -- Fees for services --**

80 **Marketing orders -- Procedure.**

81 (1) The department shall:

82 (a) inquire into and promote the interests and products of agriculture and its allied
83 industries;

84 (b) promote methods for increasing the production and facilitating the distribution of
85 the agricultural products of the state;

86 (c) (i) inquire into the cause of contagious, infectious, and communicable diseases
87 among livestock and the means for their prevention and cure; and

- 88 (ii) initiate, implement, and administer plans and programs to prevent the spread of
89 diseases among livestock;
- 90 (d) encourage experiments designed to determine the best means and methods for the
91 control of diseases among domestic and wild animals;
- 92 (e) issue marketing orders for any designated agricultural product to:
- 93 (i) promote orderly market conditions for any product;
- 94 (ii) give the producer a fair return on the producer's investment at the marketplace; and
- 95 (iii) only promote and not restrict or restrain the marketing of Utah agricultural
96 commodities;
- 97 (f) administer and enforce all laws assigned to the department by the Legislature;
- 98 (g) establish standards and grades for agricultural products and fix and collect
99 reasonable fees for services performed by the department in conjunction with the grading of
100 agricultural products;
- 101 (h) establish operational standards for any establishment that manufactures, processes,
102 produces, distributes, stores, sells, or offers for sale any agricultural product;
- 103 (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
104 rules necessary for the effective administration of the agricultural laws of the state;
- 105 (j) when necessary, make investigations, subpoena witnesses and records, conduct
106 hearings, issue orders, and make recommendations concerning all matters related to
107 agriculture;
- 108 (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any
109 private or public place that may become infested or infected with harmful insects, plant
110 diseases, noxious or poisonous weeds, or other agricultural pests;
- 111 (ii) establish and enforce quarantines;
- 112 (iii) issue and enforce orders and rules for the control and eradication of pests,
113 wherever they may exist within the state; and
- 114 (iv) perform other duties relating to plants and plant products considered advisable and
115 not contrary to law;
- 116 (l) inspect apiaries for diseases inimical to bees and beekeeping;
- 117 (m) take charge of any agricultural exhibit within the state, if considered necessary by
118 the department, and award premiums at that exhibit;

119 (n) assist the Conservation Commission in the administration of Title 4, Chapter 18,
120 Conservation Commission Act, and administer and disburse any funds available to assist
121 conservation districts in the state in the conservation of the state's soil and water resources;
122 [~~and~~]

123 (o) participate in the United States Department of Agriculture certified agricultural
124 mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Sec. 785;

125 (p) promote and support the multiple use of public lands; and

126 [~~(q)~~] (q) perform any additional functions, powers, and duties provided by law.

127 (2) The department, by following the procedures and requirements of Section
128 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

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

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

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

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

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

137 (ii) The board of control shall:

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

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

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

144 Section 2. Section **4-2-8** is amended to read:

145 **4-2-8. Temporary advisory committees -- Appointment -- Compensation.**

146 (1) The commissioner with the permission of the governor, may [~~request the governor~~
147 ~~to~~] appoint other advisory committees on a temporary basis to offer technical advice to the
148 department.

149 (2) A member of a committee serves at the pleasure of the commissioner.

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

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

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

154 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
155 63A-3-107.

156 Section 3. Section 4-7-1 is amended to read:

157 **CHAPTER 7. LIVESTOCK DEALERS' ACT**

158 **4-7-1. Title.**

159 This chapter is known as the [~~"Agricultural Products and~~] "Livestock Dealers' Act."

160 Section 4. Section 4-7-2 is amended to read:

161 **4-7-2. Purpose declaration.**

162 The Legislature finds and declares that the public interest requires regulation of the sale
163 of [~~products of agriculture~~] livestock between the producer and persons who purchase [~~such~~
164 ~~products~~] livestock for resale to protect producers from unwarranted hazard and loss in the sale
165 of their [~~products and to ensure an adequate and available supply of products to the ultimate~~
166 ~~consumer within the state~~] livestock.

167 Section 5. Section 4-7-3 is amended to read:

168 **4-7-3. Definitions.**

169 As used in this chapter:

170 (1) "Agent" or "broker" means [~~any~~] a person who, on behalf of a dealer, purchaser, or
171 livestock market, as defined in Section 4-30-1, solicits or negotiates the consignment or
172 purchase of [~~any product of agriculture~~] livestock.

173 (2) "Consignor" means [~~any~~] a person who ships or delivers [~~any product of~~
174 ~~agriculture~~] livestock to a dealer for [~~storage;~~] handling[;] or sale.

175 (3) (a) "Dealer" means [~~any~~] a person who:

176 (i) receives [~~any product of agriculture~~] livestock from [~~any~~] a person for sale [~~or~~
177 ~~storage~~] on commission; and

178 (ii) is entrusted with the possession, management, control, or disposal of [~~any product~~
179 ~~of agriculture~~] livestock for the account of that person.

180 (b) "Dealer" includes a livestock dealer.

181 (c) "Dealer" includes a person who owns or leases a ~~[warehouse]~~ feedlot.

182 (4) (a) "Immediate resale" means the resale of livestock within 60 days of purchase.

183 (b) "Immediate resale" does not include the resale of livestock culled within 60 days
184 that were purchased for feeding or replacement.

185 (5) "Livestock" means cattle, swine, equines, sheep, camelidae, ratites, bison, and
186 domesticated elk as defined in Section 4-39-102.

187 (6) "Livestock dealer" means a person engaged in the business of purchasing livestock
188 for immediate resale or interstate shipment for immediate resale.

189 (7) "Producer" means ~~[any]~~ a person who is primarily engaged in the business of
190 raising ~~[any product of agriculture]~~ livestock for profit.

191 ~~[(8) "Product of agriculture" means any product useful to the human species which
192 results from the application of the science and art of the production of plants and animals.]~~

193 ~~[(9) "Product of Agriculture Receipt" means a formal document issued by a dealer for
194 any product of agriculture in accordance with Section 4-7-9. The receipt is a fungible
195 certificate of title and claim for the product of agriculture and may be used as proof of
196 ownership for collateral.]~~

197 ~~[(10) "Warehouse" means every building, structure, yard, or other protected enclosure
198 in which any product of agriculture is or may be stored. It does not include retail stores, except
199 those that buy directly from a producer.]~~

200 Section 6. Section ~~4-7-5~~ is amended to read:

201 **4-7-5. Exemptions.**

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

203 (1) ~~[any]~~ a livestock market ~~[which]~~ that is bonded as required by laws of the United
204 States and Title 4, Chapter 30, Livestock Markets; or

205 (2) ~~[any]~~ a cooperative incorporated under the laws of this state or another state, except
206 as to the receipt of ~~[products of agriculture]~~ livestock from a nonmember producer.

207 Section 7. Section ~~4-7-7~~ is amended to read:

208 **4-7-7. Issuance of dealer, broker, and agent licenses -- Fees -- Deposit of bond or
209 trust agreement -- Renewal -- Refusal to issue or renew license.**

210 (1) The commissioner, if satisfied that the convenience and necessity of the industry
211 and the public will be served, shall issue a license to a dealer within 30 days after:

- 212 (a) receipt of a proper application and financial statement;
- 213 (b) payment of a license fee determined by the department pursuant to Subsection
214 4-2-2(2); and
- 215 (c) the posting of a corporate surety bond, an irrevocable letter of credit, a trust fund
216 agreement, or other security required by Section 4-7-8.
- 217 (2) Upon proper application and payment of the license fee determined by the
218 department pursuant to Subsection 4-2-2(2), the commissioner shall issue a license to conduct
219 business as an agent or broker.
- 220 (3) A license issued under this chapter:
- 221 (a) entitles the applicant to conduct the business described in the application through
222 December 31 of the year in which the license is issued, subject to suspension or revocation for
223 cause; and
- 224 (b) is renewable for a period of one year upon:
- 225 (i) receipt of a proper renewal application; and
- 226 (ii) payment of an annual license renewal fee determined by the department pursuant to
227 Subsection 4-2-2(2).
- 228 (4) A license issued under this chapter shall at all times remain the property of the
229 state, and the licensee is entitled to its possession only for the duration of the license.
- 230 (5) The department shall refuse to issue or renew a license if the applicant:
- 231 (a) cannot produce a financial statement with sufficient assets to justify the amount of
232 business the applicant contemplates, unless the application is for a broker's or agent's license;
- 233 (b) is in violation of this chapter or rules adopted under this chapter;
- 234 (c) has made a false or misleading statement as to the health or physical condition of
235 livestock in connection with the buying, receiving, selling, exchanging, soliciting or
236 negotiating the sale of, or the weighing of livestock;
- 237 (d) has failed to keep records of purchases and sales or refused to grant inspection of
238 those records by authorized agents of the department;
- 239 (e) has failed to comply with a lawful order of the department;
- 240 (f) has been found by the department to have failed to pay, without reasonable cause,
241 obligations incurred in connection with the [produce or] livestock transaction;
- 242 (g) has been suspended by order of the Secretary of Agriculture of the United States

243 Department of Agriculture under provisions of the Packers and Stockyards Act, 1921, 7 U.S.C.
244 Sec. 181 et seq.;

245 (h) employs a person required to be licensed whose license cannot be renewed or
246 whose license is under suspension or revocation by the department or the United States
247 Department of Agriculture; or

248 (i) has any unsatisfied civil judgments related to an activity for which licensing is
249 required by this chapter.

250 (6) An applicant who has been refused a license or license renewal may not apply again
251 for one year following refusal unless the department determines that the applicant is in
252 compliance with this chapter.

253 Section 8. Section **4-7-8** is amended to read:

254 **4-7-8. Applicant for dealer's license to post security -- Increase in amount of**
255 **security posted -- Action on security authorized -- Duties of commissioner -- Option to**
256 **require posting new security if action filed -- Effect of failure to post new security --**
257 **Commissioner's authority to call bond if not renewed.**

258 (1) (a) Before a license is issued to a dealer, the applicant shall post a corporate surety
259 bond, irrevocable letter of credit, trust fund agreement, or any other security agreement
260 considered reasonable in an amount not less than \$10,000 nor more than \$200,000, as
261 determined by the commissioner or as required by the Packers and Stockyards Act, 1921, 7
262 U.S.C. Section 181 et seq.

263 (b) Any bond shall be written by a surety licensed under the laws of Utah and name the
264 state, as obligee, for the use and benefit of producers.

265 (c) The bond or other security posted shall be conditioned upon:

266 (i) the faithful performance of contracts and the faithful accounting for and handling of
267 [~~any product of agriculture~~] livestock consigned to the dealer;

268 (ii) the performance of the obligations imposed under this chapter; and

269 (iii) the payment of court costs and attorney's fees to the prevailing party incident to
270 any suit upon the bond or other security posted.

271 (2) (a) The commissioner may require a dealer who is issued a license to increase the
272 amount of the bond or other security posted under Subsection (1)(a) if the commissioner
273 determines the bond or other security posted is inadequate to secure performance of the dealer's

274 obligations.

275 (b) The commissioner shall notify the Packers and Stockyards Administration of an
276 increase made under Subsection (2)(a).

277 (c) The commissioner may suspend a dealer's license for failure to comply with
278 Subsection (2)(a) within 10 days after notice is given to the dealer.

279 (3) A consignor claiming damages, as a result of fraud, deceit, or willful negligence by
280 a dealer or as a result of the dealer's failure to comply with this chapter, may bring an action
281 upon the bond or other security posted for damages against both the principal and surety.

282 (4) (a) If it is reported to the department by a consignor that a dealer has failed to pay in
283 a timely manner for [~~any product of agriculture~~] livestock received for sale, the commissioner
284 shall:

285 (i) ascertain the name and address of each consignor who is a creditor of the dealer;

286 and

287 (ii) request a verified written statement setting forth the amount claimed due from the
288 dealer.

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

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

294 (b) Immediately upon recovery in the action, the commissioner shall require the dealer
295 to file a new bond or other security.

296 (c) Failure, in either case, to file the bond or other security within 10 days after demand
297 is cause for suspension of the license until a new bond or other security is filed.

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

302 Section 9. Section **4-7-9** is amended to read:

303 **4-7-9. Dealers -- Records mandated -- Records subject to inspection.**

304 (1) A dealer who receives [~~any product of agriculture~~] livestock for sale[~~, storage,~~] or

305 consignment shall promptly record:

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

307 (b) the date received;

308 (c) the condition and quantity upon arrival;

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

310 (e) the sale price;

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

312 (g) the ~~[lot number or other means used for identification of the product]~~ individual or

313 group identification of the livestock;

314 (h) the nature and amount of any claims the dealer has against third persons for

315 overcharges or damages; and

316 (i) if the dealer has a direct or indirect financial interest in the business of the

317 purchaser, or, if the purchaser has a similar financial interest in the business of the dealer, the

318 name and address of the purchaser.

319 (2) (a) The dealer shall provide a copy of the ~~[Product of Agriculture Receipt]~~ livestock

320 receipt to the producer immediately upon delivery of the product.

321 ~~[(b) Dealers who issue product of agriculture receipts to producers shall plainly cancel~~

322 ~~upon the face of the receipts each receipt returned to the dealer upon:]~~

323 ~~[(i) the delivery by the dealer of the product of agriculture for which the receipt was~~

324 ~~issued; or]~~

325 ~~[(ii) payment by the dealer for the receipted product.]~~

326 ~~[(c)]~~ (b) The records required by this section shall be retained for a period of one year

327 following the date of consignment and shall be available during business hours for inspection

328 by the department.

329 ~~[(d)]~~ (c) A consignor involved in a consignment subject to inquiry may inspect relevant

330 records.

331 (3) (a) A dealer shall file an annual report of the records required under Subsection (1)

332 with the department on a form prescribed and furnished by ~~[it]~~ the department.

333 (b) The dealer shall file the report by April 15 following the end of a calendar year, or

334 if the records are kept on a fiscal year basis, by 90 days after the close of the fiscal year.

335 (c) The commissioner may, for good cause shown or by the commissioner's own

336 motion, grant an extension to the filing deadline under Subsection (3)(b).

337 (d) For purposes of this Subsection (3), "dealer" does not include a packer buyer
338 registered to purchase livestock for slaughter only.

339 (e) The department shall accept reports as required by the Packers and Stockyards
340 Administration for livestock under the Packers and Stockyards Act, 9 C.F.R. Sec. 201.97.

341 (f) The reports required under this Subsection (3) may be subject to audit and establish
342 the basis for bond adequacy.

343 Section 10. Section **4-7-10** is amended to read:

344 **4-7-10. Livestock purchases.**

345 [~~(1) In addition to the requirements of Section 4-7-9, if requested by the consignor, a~~
346 ~~dealer shall transmit or deliver a written statement of sale to the consignor before the close of~~
347 ~~the next business day following the sale of the consignor's products. The statement shall~~
348 ~~show:]~~

349 [~~(a) the date of sale;~~]

350 [~~(b) the quantity sold; and]~~

351 [~~(c) the sales price.]~~

352 [~~(2) The dealer, within 10 days after payment for any consigned product of agriculture,~~
353 ~~unless otherwise agreed in writing, shall also remit the proceeds of the sale in full to the~~
354 ~~consignor less any agreed compensation and other agreed charges together with a settlement~~
355 ~~statement, which need not list the names and addresses of purchasers, except as required by~~
356 ~~Section 4-7-9:]~~

357 [~~(3) If no time for payment is specified in the contract of sale or consignment, payment~~
358 ~~is due within 30 days after the dealer takes possession or delivery of any product of~~
359 ~~agriculture:]~~

360 [~~(4) Subsections (1) through (3) do not apply to the sale of livestock.]~~

361 Livestock purchases [~~are to~~] shall be paid for as provided in the Packers and Stockyards
362 Act, 1921, 7 U.S.C. Sec. 181, et seq.

363 Section 11. Section **4-7-11** is amended to read:

364 **4-7-11. Department authority -- Examination and investigation of transactions --**
365 **Notice of agency action upon probable cause -- Settlement of disputes -- Cease and desist**
366 **order -- Enforcement -- Review.**

367 (1) For the purpose of enforcing this chapter the department may, upon its own motion,
368 or shall, upon the verified complaint of an interested consignor, investigate, examine, or
369 inspect any transaction involving:

370 (a) the solicitation, receipt, sale, or attempted sale of [~~any product of agriculture~~]
371 livestock by a dealer or person assuming to act as a dealer;

372 (b) the failure to make a correct account of sales;

373 (c) the intentional making of a false statement about market conditions or the condition
374 or quantity of [~~any product of agriculture~~] livestock consigned;

375 (d) the failure to remit payment in a timely manner to the consignor as required by
376 contract or by this chapter;

377 (e) any other consignment transaction alleged to have resulted in damage to the
378 consignor; or

379 (f) any dealer or agent with an unsatisfied judgment by a civil court related to an
380 activity for which licensing is required by this chapter.

381 (2) (a) After investigation upon its own motion, if the department determines that
382 probable cause exists to believe that a dealer has engaged or is engaging in acts that violate this
383 chapter, [~~it~~] the department shall issue a notice of agency action.

384 (b) (i) Upon the receipt of a verified complaint, the department shall undertake to effect
385 a settlement between the consignor and the dealer.

386 (ii) If a settlement cannot be effected, the department shall treat the verified complaint
387 as a request for agency action.

388 (3) (a) In a hearing upon a verified complaint, if the commissioner, or hearing officer
389 designated by the commissioner, determines by a preponderance of the evidence that the person
390 complained of has violated this chapter and that the violation has resulted in damage to the
391 complainant, the commissioner or officer shall:

392 (i) prepare written findings of fact detailing the findings and fixing the amount of
393 damage suffered; and

394 (ii) order the defendant to pay damages.

395 (b) In a hearing initiated upon the department's own motion, if the commissioner or
396 hearing officer determines by a preponderance of the evidence that the person complained of by
397 the department has engaged in, or is engaging in, acts that violate this chapter, the

398 commissioner or officer shall prepare written findings of fact and an order requiring the person
399 to cease and desist from the activity.

400 (4) The department may petition any court having jurisdiction in the county where the
401 action complained of occurred to enforce ~~[its]~~ the department's order.

402 (5) Any dealer aggrieved by an order issued under this section may obtain judicial
403 review of the order.

404 (6) (a) The department may not act upon a verified complaint submitted to the
405 department more than six months after the consignor allegedly suffered damage.

406 (b) A livestock claim shall be made in writing within 120 days from the date of the
407 transaction.

408 Section 12. Section ~~4-7-12~~ is amended to read:

409 **4-7-12. Sale of livestock -- Prima facie evidence of fraud.**

410 The following constitutes prima facie evidence of fraud in the sale of ~~[any product of~~
411 ~~agriculture]~~ livestock:

412 (1) any sale of ~~[a product of agriculture]~~ livestock at less than market price by a dealer
413 to a person with whom the dealer has a financial interest; or

414 (2) any sale out of which the dealer receives part of the sale price other than the agreed
415 commission or other agreed charges.

416 Section 13. Section ~~4-7-13~~ is amended to read:

417 **4-7-13. Suspension or revocation -- Grounds -- Notice to producers.**

418 (1) The department may suspend or revoke the license of and suspend or refuse all
419 department services to ~~[any]~~ a person licensed under this chapter if ~~[it]~~ the department finds
420 that the licensee has:

421 (a) provided false information when making an application for a license;

422 (b) failed to comply with this chapter or rules adopted under this chapter; or

423 (c) engaged in any willful conduct ~~[which]~~ that is detrimental to a producer.

424 (2) If a license is revoked pursuant to a hearing and the decision is final, or an
425 injunction is imposed by a civil court, the department shall, by publication in a newspaper of a
426 general circulation in the area, notify producers of livestock ~~[or farm products]~~ in the area in
427 which the licensee operated that the license has been revoked or a department action has been
428 taken.

429 Section 14. Section ~~4-7-14~~ is amended to read:

430 **4-7-14. Prohibited acts.**

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

432 (a) make false charges incident to the sale~~[- handling, or storage of products of~~
433 ~~agriculture]~~ of livestock;

434 (b) wilfully fail to comply with the requirements of Section 4-7-9 or 4-7-10;

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

436 (d) reassign ~~[products of agriculture]~~ livestock without the consent of the
437 producer-consignor for the purpose of charging more than one commission;

438 (e) make any false statement to the detriment of the producer regarding current market
439 conditions for ~~[products of agriculture]~~ livestock or about the condition or quantity of the
440 ~~[products]~~ livestock consigned for the account of the producer;

441 (f) engage in fraud or misrepresentation in the procurement or attempted procurement
442 of a license; or

443 (g) act as a dealer or agent and, with intent to defraud, make, draw, utter, or deliver any
444 check, draft, or order for the payment of money from any bank or other depository to the owner
445 for the purchase price of ~~[any farm products or any part thereof]~~ livestock, when at the time of
446 the making, drawing, uttering, or delivery the maker or drawer does not have sufficient funds in
447 or credit with the bank or other depository for the payment of the check, draft, or order in full
448 upon its presentation.

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

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

453 Section 15. Section ~~4-14-3~~ is amended to read:

454 **4-14-3. Registration required for distribution -- Application -- Fees -- Renewal --**
455 **Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**

456 (1) (a) No person may distribute a pesticide in this state that is not registered with the
457 department.

458 (b) Application for registration shall be made to the department upon forms prescribed
459 and furnished by it accompanied with an annual registration fee determined by the department

460 pursuant to Subsection 4-2-2(2) for each pesticide registered.

461 (c) Upon receipt by the department of a proper application and payment of the
462 appropriate fee, the commissioner shall issue a registration to the applicant allowing
463 distribution of the registered pesticide in this state through June 30 of each year, subject to
464 suspension or revocation for cause.

465 (d) (i) Each registration is renewable for a period of one year upon the payment of an
466 annual registration renewal fee in an amount equal to the current applicable original
467 registration fee.

468 (ii) Each renewal fee shall be paid on or before June 30 of each year.

469 (2) The application shall include the following information:

470 (a) the name and address of the applicant and the name and address of the person
471 whose name will appear on the label, if other than the applicant's name;

472 (b) the name of the pesticide;

473 (c) a complete copy of the label which will appear on the pesticide; and

474 (d) any information prescribed by rule of the department considered necessary for the
475 safe and effective use of the pesticide.

476 (3) (a) Forms for the renewal of registration shall be mailed to registrants at least 30
477 days before their registration expires.

478 (b) A registration in effect on June 30 for which a renewal application has been filed
479 and the registration fee tendered shall continue in effect until the applicant is notified either
480 that the registration is renewed or that it is suspended or revoked pursuant to Section 4-14-8.

481 (4) The department may, before approval of any registration, require the applicant to
482 submit the complete formula of any pesticide including active and inert ingredients and may
483 also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on
484 which restrictions are being considered, require a complete description of all tests and test
485 results that support the claims made by the applicant or the manufacturer of the pesticide.

486 (5) A registrant who desires to register a pesticide to meet special local needs
487 according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and
488 (2), satisfy the department that:

489 (a) a special local need exists;

490 (b) the pesticide warrants the claims made for it;

491 (c) the pesticide, if used in accordance with commonly accepted practices, will not
492 cause unreasonable adverse effects on the environment; and

493 (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

494 (6) No registration is required for a pesticide distributed in this state pursuant to an
495 experimental use permit issued by the EPA or under Section 4-14-5.

496 (7) No pesticide dealer may distribute a restricted use pesticide in this state without a
497 license.

498 (8) A person shall receive a license before applying:

499 (a) a restricted use pesticide; or

500 (b) a general use pesticide for hire or in exchange for compensation.

501 (9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained
502 by:

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

504 (ii) paying the license fee determined by the department according to Subsection
505 4-2-2(2); and

506 (iii) complying with the rules adopted as authorized by this chapter.

507 (b) A person may apply for a triennial license that expires on December 31 [~~-(i) of the~~
508 ~~calendar year in which the license is issued; or (ii)] of the second calendar year after the~~
509 calendar year in which the license is issued.

510 (c) Notwithstanding Section 63J-1-504, the department shall retain the fees as
511 dedicated credits and may only use the fees to administer and enforce;

512 (i) this chapter[-]; and

513 (ii) any other chapter of this title for the purpose of improving rangeland health.

514 Section 16. Section **4-18-2** is amended to read:

515 **4-18-2. Purpose declaration.**

516 (1) The Legislature finds and declares that the soil and water resources of this state
517 constitute one of its basic assets and that the preservation of these resources requires planning
518 and programs to ensure the development and utilization of these resources and to protect them
519 from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

520 (2) The Legislature finds that local production of food is essential for:

521 (a) the security of the state's food supply; and

- 522 (b) the self sufficiency of the state's citizens.
- 523 (3) The Legislature finds that sustainable agriculture is critical to:
- 524 (a) the success of rural communities;
- 525 (b) the historical culture of the state;
- 526 (c) maintaining healthy farmland;
- 527 (d) maintaining high water quality;
- 528 (e) maintaining abundant wildlife; and
- 529 (f) high-quality recreation for citizens of the state.
- 530 (4) The Legislature finds that livestock grazing on public lands is important for the
- 531 proper management, maintenance, and health of public lands in the state.
- 532 (5) The Legislature encourages each agricultural producer in the state to operate in a
- 533 reasonable and responsible manner to maintain the integrity of land, soil, water, and air.
- 534 (6) To encourage each agricultural producer in this state to operate in a reasonable and
- 535 responsible manner to maintain the integrity of the state's resources, the state shall offer a
- 536 certification of environmental stewardship as defined in Section 4-18-3.
- 537 Section 17. Section **4-18-3** is amended to read:
- 538 **4-18-3. Definitions.**
- 539 As used in this chapter:
- 540 (1) (a) "Agricultural discharge" means the release of agriculture water from the
- 541 property of a farm, ranch, or feedlot that:
- 542 (i) pollutes a surface body of water, including a stream, lake, pond, marshland,
- 543 watercourse, waterway, river, ditch, or other water conveyance system;
- 544 (ii) pollutes ground water; or
- 545 (iii) constitutes a significant nuisance to urban land.
- 546 (b) "Agricultural discharge" does not include:
- 547 (i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated
- 548 field onto land that is not part of a body of water; or
- 549 (ii) a release of water from a farm, ranch, or feedlot into a normally dry water
- 550 conveyance leading to an active body of water, if the release does not reach the water of a lake,
- 551 pond, stream, marshland, river, or other active body of water.
- 552 (2) "Agriculture water" means:

- 553 (a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;
- 554 (b) the return flow of water from irrigated agriculture; or
- 555 (c) agricultural storm-water runoff.

556 [~~1~~] (3) "Alternate" means a substitute for a district supervisor if the district supervisor
557 cannot attend a meeting.

558 [~~2~~] (4) (a) "Animal feeding operation" means a facility where animals, other than
559 aquatic animals, are stabled or confined and fed or maintained for a total of 45 days or more in
560 any 12-month period.

561 (b) "Animal feeding operation" does not include an operation where animals are in
562 areas such as pastures or rangeland that sustain crops or forage growth during the entire time
563 the animals are present.

564 (5) "Best management practices" means practices, including management policies and
565 the use of technology, used by each sector of agriculture in the production of food and fiber
566 that are commonly accepted practices, or that are at least as effective as commonly accepted
567 practices, and that:

- 568 (a) protect the environment;
- 569 (b) protect human health;
- 570 (c) ensure the humane treatment of animals; and
- 571 (d) promote the financial viability of agricultural production.

572 (6) "Certified conservation planner" means a planner of a state conservation district, or
573 other qualified planner, that is approved by the commission to issue a certification of
574 environmental stewardship.

575 (7) "Certification of environmental stewardship" means an official recognition by the
576 state that an owner or operator of a farm, ranch, or feedlot meets the requirements established
577 by the commission:

- 578 (a) to prevent harm to the environment, including the prevention of an agricultural
579 discharge;
- 580 (b) for following best management practices; and
- 581 (c) for following nutrient management plans that meet the state technical standards
582 appropriate for the given type of agricultural operation.

583 [~~3~~] (8) "Commission" means the Conservation Commission created in Section

584 4-18-4.

585 [~~(4)~~] (9) "Comprehensive nutrient management plan" [~~means a plan that identifies~~
586 ~~actions or priorities that will be followed to meet clearly defined nutrient management goals at~~
587 ~~an animal feeding operation;]~~ or "nutrient management plan" means a plan to properly store,
588 handle, and spread manure and other agricultural byproducts to:

589 (a) protect the environment; and

590 (b) provide nutrients for the production of crops.

591 [~~(5)~~] (10) "District" or "conservation district" has the same meaning as "conservation
592 district" as defined in Section 17D-3-102.

593 (11) "Pollution" means a harmful human-made or human-induced alteration to the
594 water of the state, including an alteration to the chemical, physical, biological, or radiological
595 integrity of water that harms the water of the state.

596 (12) "State technical standards" means a collection of best management practices that
597 will protect the environment in a reasonable and economical manner for each sector of
598 agriculture as required by this chapter.

599 (13) "Sustainable agriculture" means agriculture production and practices that promote:

600 (a) the environmental responsibility of owners and operators of farms, ranches, and
601 feedlots; and

602 (b) the profitability of owners and operators of farms, ranches, and feedlots.

603 Section 18. Section **4-18-5** is amended to read:

604 **4-18-5. Conservation commission -- Functions and duties.**

605 (1) The commission shall:

606 (a) facilitate the development and implementation of the strategies and programs
607 necessary to:

608 (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state;
609 and

610 (ii) promote the protection, integrity, and restoration of land for agricultural and other
611 beneficial purposes;

612 (b) disseminate information regarding districts' activities and programs;

613 (c) supervise the formation, reorganization, or dissolution of districts according to the
614 requirements of Title 17D, Chapter 3, Conservation District Act;

- 615 (d) prescribe uniform accounting and recordkeeping procedures for districts and
616 require each district to submit annually an audit of its funds to the commission;
- 617 (e) approve and make loans for agricultural purposes, from the Agriculture Resource
618 Development Fund for:
- 619 (i) ~~[nonfederal]~~ rangeland improvement and management projects;
- 620 (ii) watershed protection and flood prevention projects;
- 621 (iii) agricultural cropland soil and water conservation projects; and
- 622 (iv) programs designed to promote energy efficient farming practices;
- 623 (f) administer federal or state funds, including loan funds under this chapter, in
624 accordance with applicable federal or state guidelines and make loans or grants from those
625 funds to land occupiers for:
- 626 (i) the conservation of soil or water resources; and
- 627 (ii) maintenance of rangeland improvement projects;
- 628 (g) seek to coordinate soil and water protection, conservation, and development
629 activities and programs of state agencies, local governmental units, other states, special interest
630 groups, and federal agencies; ~~[and]~~
- 631 (h) plan watershed and flood control projects in cooperation with appropriate local,
632 state, and federal authorities and coordinate flood control projects in the state[-];
- 633 (i) develop the requirements for:
- 634 (i) a certification of environmental stewardship, including best management practices,
635 technical standards, and nutrient management plans, as applicable to each agricultural sector;
636 and
- 637 (ii) providing the certification to each owner or operator of a farm, ranch, or feedlot
638 that:
- 639 (A) requests certification; and
- 640 (B) qualifies for certification;
- 641 (j) develop best management practices and state technical standards when requested by
642 governmental agencies or agricultural producer groups;
- 643 (k) develop the requirements and certification process for an individual to be a certified
644 conservation planner as defined in Section 4-18-3;
- 645 (l) assist other state agencies with conservation standards for agriculture when

646 requested:

647 (m) when assigned by the governor, when required by contract with the Department of
648 Environmental Quality, or when required by contract with the United States Environmental
649 Protection Agency:

650 (i) develop programs for the prevention, control, or abatement of new or existing
651 pollution to the soil, water, or air of the state;

652 (ii) advise, consult, and cooperate with affected parties to further the purpose of this
653 chapter;

654 (iii) conduct studies, investigations, research, and demonstrations relating to
655 agricultural pollution issues;

656 (iv) give reasonable consideration in the exercise of its powers and duties to the
657 economic impact on sustainable agriculture;

658 (v) meet the requirements of federal law related to water and air pollution in the
659 exercise of its powers and duties; and

660 (vi) establish administrative penalties relating to agricultural discharges as defined in
661 Section 4-18-3 that are proportional to the seriousness of the resulting environmental harm.

662 (2) The commission may:

663 (a) employ, with the approval of the department, an administrator and necessary
664 technical experts and employees;

665 (b) execute contracts or other instruments necessary to exercise its powers;

666 (c) take necessary action to promote and enforce the purpose and findings of Section
667 4-18-2;

668 [~~(d)~~] (d) sue and be sued; and

669 [~~(e)~~] (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
670 Rulemaking Act, necessary to carry out the powers and duties [~~specified~~] described in
671 [~~Subsections~~] Subsection (1)[~~(d)~~, ~~(e)~~, ~~(f)~~] and Subsections (2)(b) and (c).

672 Section 19. Section **4-20-3** is amended to read:

673 **4-20-3. Rangeland Improvement Account distribution.**

674 (1) The department shall distribute restricted account money as provided in this
675 section.

676 (a) The department shall:

677 (i) distribute pro rata to each school district the monies received by the state under
678 Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of
679 revenue generated from the sale or lease of public lands within the district; and

680 (ii) ensure that all monies generated from the sale or lease of public lands within a
681 school district are credited and deposited to the general school fund of that school district.

682 (b) (i) After the commissioner approves a request from a regional board, the
683 department shall distribute pro rata to each regional board monies received by the state under
684 Subsection 4-20-2(1)(b)(i) from fees based upon the amount of revenue generated from the
685 imposition of fees within that grazing district.

686 (ii) The regional board shall expend monies received in accordance with Subsection
687 (2).

688 (c) (i) The department shall distribute or expend monies received by the state under
689 Subsections 4-20-2(1)(b)(ii) through (iv) for the purposes outlined in Subsection (2).

690 (ii) The department may require entities seeking funding from sources outlined in
691 Subsections 4-20-2(1)(b)(ii) through (iv) to provide matching funds.

692 (2) The department shall ensure that restricted account distributions or expenditures
693 under Subsections (1)(b) and (c) are used for:

694 (a) range improvement and maintenance;

695 (b) the control of predatory and depredating animals;

696 (c) the control, management, or extermination of invading species, range damaging
697 organisms, and poisonous or noxious weeds;

698 (d) the purchase or lease of lands or a conservation easement for the benefit of a
699 grazing district;

700 (e) watershed protection, development, distribution, and improvement; and

701 (f) the general welfare of livestock grazing within a grazing district.

702 Section 20. Section **4-20-10** is enacted to read:

703 **4-20-10. Promotion of multiple use of rangeland resources.**

704 (1) The department shall work cooperatively to promote efficient multiple-use
705 management of the rangeland resources of the public lands administered by the federal Bureau
706 of Land Management within the state to benefit the overall public interest.

707 (2) The department may serve as an independent resource for mediating disputes

708 concerning permit issues within the scope of Subsection (1).

709 Section 21. Section **4-21-3** is amended to read:

710 **4-21-3. Beef promotion fee -- Deposit of revenue -- Fee set by referendum.**

711 (1) (a) The department shall collect a fee established as required by Subsection (2) on
712 all fee brand inspected cattle upon change of ownership or slaughter in an amount not more
713 than \$1 or less than 25 cents.

714 (b) The fee is collected by the local brand inspector at the time of inspection of cattle,
715 or deducted and collected by the marketing agency or the purchaser.

716 (c) All revenue collected under this section shall be paid to the department, which shall
717 deposit the revenue in an agency fund that is hereby created and [~~shall be~~ is known as the
718 "Beef Promotion Fund."

719 (2) Before a fee assessed under Subsection (1) becomes effective, the department shall
720 give notice of the proposed fee to all known beef and dairy cattle producers in the state, invite
721 all beef and dairy cattle producers to register to vote in a referendum, conduct a hearing on the
722 proposed fee change, and conduct a referendum where at least 50% of the registered producers
723 cast a vote with a majority of those voting casting an affirmative vote on the proposed fee level.

724 (3) Any fee currently assessed by the department continues in effect until modified by
725 the department under Subsections (1) and (2).

726 (4) The fee assessed under this section [~~shall be reduced by~~ is in addition to the
727 amount of any assessment required to be paid pursuant to the Beef Promotion and Research
728 Act of 1985, 7 U.S.C. Sec. 2901 et seq.

729 Section 22. Section **4-32-3** is amended to read:

730 **4-32-3. Definitions.**

731 As used in this chapter:

732 (1) "Adulterated" means any meat or poultry product that:

733 (a) bears or contains any poisonous or deleterious substance that may render it
734 injurious to health, but, if the substance is not an added substance, the meat or poultry product
735 is not considered adulterated under this subsection if the quantity of the substance in or on the
736 meat or poultry product does not ordinarily render it injurious to health;

737 (b) bears or contains, by reason of the administration of any substance to the animal or
738 otherwise, any added poisonous or added deleterious substance that in the judgment of the

739 commissioner makes the meat or poultry product unfit for human food;

740 (c) contains, in whole or in part, a raw agricultural commodity and that commodity
741 bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec.
742 346a;

743 (d) bears or contains any food additive that is unsafe within the meaning of 21 U.S.C.
744 Sec. 348;

745 (e) bears or contains any color additive that is unsafe within the meaning of 21 U.S.C.
746 Sec. 379e; provided, that a meat or poultry product that is not otherwise considered adulterated
747 under Subsection (1)(c) or (d) of this section is considered adulterated if use of the pesticide
748 chemical, food additive, or color additive is prohibited in official establishments by federal
749 law, regulation, or standard;

750 (f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for
751 any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

752 (g) has been prepared, packaged, or held under unsanitary conditions if the meat or
753 poultry product may have become contaminated with filth, or if it may have been rendered
754 injurious to health;

755 (h) is in whole or in part the product of an animal that died other than by slaughter;

756 (i) is contained in a container that is composed, in whole or in part, of any poisonous or
757 deleterious substance that may render the meat or poultry product injurious to health;

758 (j) has been intentionally subjected to radiation, unless the use of the radiation
759 conforms with a regulation or exemption in effect pursuant to 21 U.S.C. Sec. 348;

760 (k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or
761 if damage or inferiority is concealed in any manner; or if any substance has been added, mixed,
762 or packed with the meat or poultry product to increase its bulk or weight, or reduce its quality
763 or strength, or to make it appear better or of greater value; or

764 (l) is margarine containing animal fat and any of the raw material used in the margarine
765 consists in whole or in part of any filthy, putrid, or decomposed substance.

766 (2) "Animal" means a domesticated or captive mammalian or avian species.

767 (3) "Animal food manufacturer" means any person engaged in the business of
768 preparing animal food derived from animal carcasses or parts or products of the carcasses.

769 (4) "Ante mortem inspection" means an inspection of a live animal immediately before

770 slaughter.

771 (5) "Broker" means any person engaged in the business of buying and selling meat or
772 poultry products other than for the person's own account.

773 (6) "Capable of use as human food" means any animal carcass, or part or product of a
774 carcass, unless it is denatured or otherwise identified as required by rules of the department to
775 deter its use as human food.

776 (7) "Commissioner" includes a person authorized by the commissioner to carry out this
777 chapter's provisions.

778 (8) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle,
779 wrapper, or cover.

780 (9) "Custom exempt processing" means processing meat or wild game as a service for
781 the person who owns the meat or wild game and uses the meat and meat food products for the
782 person's own consumption, including consumption by immediate family members and
783 non-paying guests.

784 (10) "Custom exempt slaughter":

785 (a) means slaughtering an animal as a service for the person who owns the animal and
786 uses the meat and meat products for the person's own consumption, including consumption by
787 immediate family members and non-paying guests; and

788 (b) includes farm custom slaughter.

789 (11) "Director of meat inspection" means a licensed graduate veterinarian whose duties
790 and responsibilities are specified by the commissioner.

791 (12) "Diseased animal":

792 (a) means an animal that:

793 (i) is diagnosed with a disease not known to be cured; or

794 (ii) has exhibited signs or symptoms of a disease that is not known to be cured; and

795 (b) does not include an otherwise healthy animal that suffers only from injuries such as
796 fractures, cuts, or bruises.

797 (13) "Farm custom slaughter" means custom exempt slaughtering of an animal for an
798 owner without inspection.

799 (14) "Farm custom mobile unit" means a portable slaughter vehicle or trailer that is
800 used by a farm custom slaughter licensee to slaughter animals [~~on the animal owner's property~~].

801 (15) "Farm custom slaughter license" means a license issued by the department to
802 allow farm custom slaughter.

803 (16) "Farm custom slaughter tag" means a tag that specifies the animal's identification
804 and certifies its ownership, which is issued by the department through a brand inspector to the
805 owner of the animal before it is slaughtered.

806 (17) "Federal acts" means:

807 (a) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq;

808 (b) the Federal Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; and

809 (c) the Humane Slaughter Act, 7 U.S.C. 1901 et seq.

810 (18) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved June
811 25, 1938 (52 Stat. 1040) (21 U.S.C. 301 et seq.), and any amendments to it.

812 (19) "Immediate container" means any consumer package, or any other container in
813 which meat or poultry products not consumer packaged, are packed.

814 (20) "Inspector" means a licensed veterinarian or competent lay person working under
815 the supervision of a licensed graduate veterinarian.

816 (21) "Label" means a display of printed or graphic matter upon any meat or poultry
817 product or the immediate container, not including package liners, of any such product.

818 (22) "Labeling" means all labels and other printed or graphic matter:

819 (a) upon any meat or poultry product or any of its containers or wrappers; or

820 (b) accompanying a meat or poultry product.

821 (23) "Licensee" means a person who holds a valid farm custom slaughter license.

822 (24) "Meat" means the edible muscle and other edible parts of an animal, including
823 edible:

824 (a) skeletal muscle;

825 (b) organs;

826 (c) muscle found in the tongue, diaphragm, heart, or esophagus; and

827 (d) fat, bone, skin, sinew, nerve, or blood vessel that normally accompanies meat and is
828 not ordinarily removed in processing.

829 (25) "Meat establishment" means a plant or fixed premises used to:

830 (a) slaughter animals for human consumption; or

831 (b) process meat or poultry products for human consumption.

832 (26) "Meat product" means any product capable of use as human food that is made
833 wholly or in part from any meat or other part of the carcass of any non-avian animal.

834 (27) "Misbranded" means any meat or poultry product that:

835 (a) bears a label that is false or misleading in any particular;

836 (b) is offered for sale under the name of another food;

837 (c) is an imitation of another food, unless the label bears, in type of uniform size and
838 prominence, the word "imitation" followed by the name of the food imitated;

839 (d) if its container is so made, formed, or filled as to be misleading;

840 (e) does not bear a label showing:

841 (i) the name and place of business of the manufacturer, packer, or distributor; and

842 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or
843 numerical count; provided, that under this Subsection (27)(e), exemptions as to meat and
844 poultry products not in containers may be established by rules of the department and that under
845 this Subsection (27)(e)(ii), reasonable variations may be permitted, and exemptions for small
846 packages may be established for meat or poultry products by rule of the department;

847 (f) does not bear any word, statement, or other information required by or under
848 authority of this chapter to appear on the label or other labeling is not prominently placed with
849 such conspicuousness, as compared with other words, statements, designs, or devices, in the
850 labeling, and in such terms as to render it likely to be read and understood by the ordinary
851 individual under customary conditions of purchase and use;

852 (g) is a food for which a definition and standard of identity or composition has been
853 prescribed by rules of the department under Section 4-32-7 if the food does not conform to the
854 definition and standard and the label does not bear the name of the food and any other
855 information that is required by the rule;

856 (h) is a food for which a standard of fill has been prescribed by rule of the department
857 for the container and the actual fill of the container falls below that prescribed unless its label
858 bears, in a manner and form as the rule specifies, a statement that it falls below the standard;

859 (i) is a food for which no standard or definition of identity has been prescribed under
860 Subsection (27)(g) unless its label bears:

861 (i) the common or usual name of the food, if there be any; and

862 (ii) if it is fabricated from two or more ingredients, the common or usual name of each

863 such ingredient; except that spices, flavorings, and colorings may, when authorized by the
864 department, be designated as spices, flavorings, and colorings without naming each; provided,
865 that to the extent that compliance with the requirements of this Subsection (27)(i)(ii) is
866 impracticable, or results in deception or unfair competition, exemptions shall be established by
867 rule;

868 (j) is a food that purports to be or is represented to be for special dietary uses, unless its
869 label bears information concerning its vitamin, mineral, and other dietary properties as the
870 department, after consultation with the Secretary of Agriculture of the United States, prescribes
871 by rules as necessary to inform purchasers as to its value for special dietary uses;

872 (k) bears or contains any artificial flavoring, artificial coloring, or chemical
873 preservative, unless it bears labeling stating that fact; provided, that to the extent that
874 compliance with the requirements of this subsection are impracticable, exemptions shall be
875 prescribed by rules of the department; or

876 (l) does not bear directly thereon and on its containers, as the department may prescribe
877 by rule, the official inspection legend and establishment number of the official establishment
878 where the product was prepared, and, unrestricted by any of the foregoing, other information as
879 the department may require by rule to assure that the meat or poultry product will not have
880 false or misleading labeling and that the public will be informed of the manner of handling
881 required to maintain it in a wholesome condition.

882 (28) "Official certificate" means any certificate prescribed by rules of the department
883 for issuance by an inspector or other person performing official functions under this chapter.

884 (29) "Official device" means any device prescribed or authorized by the commissioner
885 for use in applying any official mark.

886 (30) "Official establishment" means any establishment at which inspection of the
887 slaughter of animals or the preparation of meat or poultry products is maintained under the
888 authority of this chapter.

889 (31) "Official inspection legend" means any symbol prescribed by rules of the
890 department showing that a meat or poultry product was inspected and passed in accordance
891 with this chapter.

892 (32) "Official mark" means the official legend or any other symbol prescribed by rules
893 of the department to identify the status of any animal carcass or meat or poultry product under

894 this chapter.

895 (33) "Pesticide chemical," "food additive," "color additive," and "raw agricultural
896 commodity," have the same meanings for purposes of this chapter as ascribed to them in the
897 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

898 (34) "Post mortem inspection" means an inspection of a slaughtered food animal's
899 carcass after slaughter.

900 (35) "Poultry" means any domesticated bird, whether living or dead.

901 (36) "Poultry product" means any product capable of use as human food that is made
902 wholly or in part from any poultry carcass, excepting products that contain poultry ingredients
903 in relatively small proportion or that historically have not been considered by consumers as
904 products of the poultry food industry, and that are exempted from definition as a poultry
905 product by the commissioner.

906 (37) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or
907 otherwise manufactured or processed.

908 (38) "Process" means to cut, grind, manufacture, compound, smoke, intermix, or
909 prepare meat or poultry products.

910 (39) "Renderer" means any person engaged in the business of rendering animal
911 carcasses, or parts or products of animal carcasses, except rendering conducted under
912 inspection or exemption under this chapter.

913 (40) "Slaughter" means:

- 914 (a) the killing of an animal in a humane manner including skinning or dressing; or
915 (b) the process of performing any of the specified acts in preparing an animal for
916 human consumption.

917 (41) "Wild game" means an animal, the products of which are food that is not
918 classified as a domesticated food animal, captive game animal, or captive game bird, including
919 the following when not domesticated:

- 920 (a) deer;
921 (b) elk;
922 (c) antelope;
923 (d) moose;
924 (e) bison;

- 925 (f) bear;
- 926 (g) rabbit;
- 927 (h) squirrel;
- 928 (i) raccoon; and
- 929 (j) birds.

930 Section 23. Section ~~4-32-4~~ is amended to read:

931 **4-32-4. Meat establishment license -- Slaughtering livestock except in licensed**
932 **meat establishment prohibited -- Exceptions -- Violation a misdemeanor.**

933 (1) A person may not, except in a licensed meat establishment, slaughter animals for
934 human consumption or assist other persons in the slaughter or processing of animals except as
935 otherwise provided in Subsection (2), (3), or (4).

936 (2) A person who raises an animal or an employee of that person may slaughter an
937 animal without a farm custom slaughter license if:

- 938 [~~(a) (i) the animal is slaughtered on property owned by the person; and~~]
- 939 [~~(ii) (A)~~] (a) slaughtering or processing animals is not prohibited by local ordinance;
- 940 [and]

941 [~~(B)~~] (b) any hide, viscera, blood, or other tissue is disposed of by removal to a
942 rendering facility, landfill, or by burial, as allowed by law;

943 [~~(b)~~] (c) the meat or poultry product derived from the slaughtered animal is consumed
944 exclusively by the person or the person's immediate family, regular employees of the person, or
945 nonpaying guests; and

946 [~~(c)~~] (d) the meat or poultry product is marked "Not For Sale."

947 (3) Farm custom slaughter may be performed by a person who holds a valid farm
948 custom slaughter license.

949 (4) A retail establishment that processes meat or poultry products primarily for sale to
950 individual consumers at the retail establishment is exempt from provisions requiring licensing
951 of a meat establishment if:

- 952 (a) the retail establishment is not engaged in slaughter operations;
- 953 (b) the retail establishment sells the processed meat and poultry products only to
954 individual consumers at the retail establishment, or to restaurants or institutions for use in
955 meals served at those restaurants or institutions;

956 (c) the retail establishment's sales of processed meat and poultry products to restaurants
957 or institutions do not exceed the federal adjusted dollar limitation, or [~~25 percent~~] 25% by
958 dollar volume of all meat sales from the retail establishment, whichever is less;

959 (d) the retail establishment receives meat only from a meat establishment licensed
960 under this chapter or inspected by the United States Department of Agriculture under 21 U.S.C.
961 Sections 451 to 695;

962 (e) the operator of the retail establishment does not sell, to any person other than an
963 individual consumer, any meat or poultry product that is cured, smoked, seasoned, canned, or
964 cooked at the retail establishment;

965 (f) the retail establishment does not sell any meat or poultry product that is cured,
966 smoked, seasoned, canned, or cooked at the retail establishment at a location other than the
967 retail establishment; and

968 (g) the operator of the retail establishment does not sell, to any person other than an
969 individual consumer, any meat product made by combining meat from different animal species
970 at the retail establishment.

971 (5) Any person who violates this section, except as otherwise provided in Subsection
972 (6), is guilty of a class C misdemeanor.

973 (6) Any person who offers for sale or sells any uninspected meat or poultry product is
974 guilty of a class B misdemeanor.