

Representative Mike K. McKell proposes the following substitute bill:

AGRICULTURE MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies the Agriculture code.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ states that the Department of Agriculture and Food may contract for services and accept and administer grants;
- ▶ modifies the duties of the state veterinarian;
- ▶ states that the Department of Agriculture and Food may require labels on certain products;
- ▶ states that the Department of Agriculture and Food may make rules in regard to "Utah's Own," a program dedicated to the promotion of locally produced products of agriculture;
- ▶ modifies the labeling requirements for commercial feed;
- ▶ authorizes the Department of Agriculture and Food to deny, revoke, or suspend a pesticide applicator license;
- ▶ modifies the membership of the State Weed Committee;
- ▶ authorizes the Agricultural Advisory Board to create a subcommittee;



- 26 ▶ modifies the length of time a domesticated elk facility shall maintain records;
- 27 ▶ authorizes the Department of Agriculture and Food to set a fee for the application of
- 28 an industrial hemp certificate; and
- 29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 4-5-2, as last amended by Laws of Utah 2007, Chapter 146
- 37 4-8-4, as last amended by Laws of Utah 2010, Chapter 324
- 38 4-11-2, as last amended by Laws of Utah 2014, Chapter 411
- 39 4-11-4, as last amended by Laws of Utah 2010, Chapter 73
- 40 4-11-13, as last amended by Laws of Utah 2010, Chapter 73
- 41 4-12-2, as last amended by Laws of Utah 2007, Chapter 179
- 42 4-12-3, as last amended by Laws of Utah 2008, Chapter 382
- 43 4-12-4, as last amended by Laws of Utah 1985, Chapter 130
- 44 4-12-5, as last amended by Laws of Utah 2007, Chapter 179
- 45 4-12-6, as enacted by Laws of Utah 1979, Chapter 2
- 46 4-12-7, as enacted by Laws of Utah 1979, Chapter 2
- 47 4-12-8, as enacted by Laws of Utah 1979, Chapter 2
- 48 4-14-8, as enacted by Laws of Utah 1979, Chapter 2
- 49 4-18-105, as last amended by Laws of Utah 2016, Chapter 19
- 50 4-19-3, as last amended by Laws of Utah 2007, Chapter 179
- 51 4-24-2, as last amended by Laws of Utah 2010, Chapter 378
- 52 4-24-11, as last amended by Laws of Utah 1997, Chapter 302
- 53 4-24-17, as last amended by Laws of Utah 1997, Chapter 302
- 54 4-31-111, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 55 4-33-7, as enacted by Laws of Utah 1981, Chapter 8
- 56 4-39-102, as enacted by Laws of Utah 1997, Chapter 302

- 57 4-39-201, as last amended by Laws of Utah 2010, Chapter 378
- 58 4-39-203, as last amended by Laws of Utah 2009, Chapter 183
- 59 4-39-205, as last amended by Laws of Utah 2010, Chapter 378
- 60 4-39-206, as last amended by Laws of Utah 2010, Chapter 378
- 61 4-39-301, as enacted by Laws of Utah 1997, Chapter 302
- 62 4-39-305, as last amended by Laws of Utah 2010, Chapter 378
- 63 4-39-306, as last amended by Laws of Utah 2010, Chapter 378
- 64 4-39-401, as last amended by Laws of Utah 2014, Chapter 189
- 65 4-41-103, as enacted by Laws of Utah 2014, Chapter 25

66 REPEALS:

- 67 4-36-1, as enacted by Laws of Utah 1985, Chapter 191
- 68 4-36-2, as enacted by Laws of Utah 1985, Chapter 191
- 69 4-36-3, as last amended by Laws of Utah 1997, Chapter 82
- 70 4-36-4, as last amended by Laws of Utah 1997, Chapter 82
- 71 4-36-5, as enacted by Laws of Utah 1985, Chapter 191
- 72 4-36-6, as enacted by Laws of Utah 1985, Chapter 191
- 73 4-36-7, as enacted by Laws of Utah 1985, Chapter 191

74

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

76 Section 1. Section 4-5-2 is amended to read:

77 **4-5-2. Definitions.**

78 As used in this chapter:

79 (1) "Advertisement" means a representation, other than by labeling, made to induce the
80 purchase of food.

81 (2) (a) "Color additive" means a dye, pigment, or other substance not exempted under
82 the federal act that, when added or applied to a food, is capable of imparting color. "Color"
83 includes black, white, and intermediate grays.

84 (b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or
85 other agricultural chemical which imparts color solely because of its effect, before or after
86 harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other
87 natural physiological process of any plant life.

88 (3) (a) "Consumer commodity" means a food, as defined by this act, or by the federal
89 act.

90 (b) "Consumer commodity" does not include:

91 (i) a commodity subject to packaging or labeling requirements imposed under the
92 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

93 (ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

94 (iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec.
95 601 et seq.;

96 (iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec.
97 451 et seq.;

98 (v) a tobacco or tobacco product; or

99 (vi) a beverage subject to or complying with packaging or labeling requirements
100 imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

101 (4) "Contaminated" means not securely protected from dust, dirt, or foreign or
102 injurious agents.

103 (5) "Farmers market" means a market where producers of food products sell only fresh,
104 raw, whole, unprocessed, and unprepared food items directly to the final consumer.

105 (6) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301
106 et seq.

107 (7) "Food" means:

108 (a) an article used for food or drink for human or animal consumption or the
109 components of the article;

110 (b) chewing gum or its components; or

111 (c) a food supplement for special dietary use which is necessitated because of a
112 physical, physiological, pathological, or other condition.

113 (8) (a) "Food additive" means a substance, the intended use of which results in the
114 substance becoming a component, or otherwise affecting the characteristics, of a food. "Food
115 additive" includes a substance or source of radiation intended for use in producing,
116 manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding
117 food.

118 (b) "Food additive" does not include:

- 119 (i) a pesticide chemical in or on a raw agricultural commodity;
- 120 (ii) a pesticide chemical that is intended for use or is used in the production, storage, or
121 transportation of a raw agricultural commodity; or
- 122 (iii) a substance used in accordance with a sanction or approval granted pursuant to the
123 Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act,
124 21 U.S.C. Sec. 601 et seq.
- 125 (9) (a) "Food establishment" means a grocery store, bakery, candy factory, food, farm,
126 processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill,
127 cold or dry warehouse storage, or other facility where food products are grown, manufactured,
128 canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.
- 129 (b) "Food establishment" does not include:
- 130 (i) a dairy farm, a dairy plant, or a meat establishment, which is subject to the Poultry
131 Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21
132 U.S.C. Sec. 601 et seq.; or
- 133 (ii) a farmers market.
- 134 (10) "Label" means a written, printed, or graphic display on the immediate container of
135 an article of food. The department may require that a label contain specific written, printed, or
136 graphic information which is:
- 137 (a) displayed on the outside container or wrapper of a retail package of an article; or
138 (b) easily legible through the outside container or wrapper.
- 139 (11) "Labeling" means a label and other written, printed, or graphic display:
- 140 (a) on an article of food or its containers or wrappers; or
141 (b) accompanying the article of food.
- 142 (12) "Official compendium" means the official documents or supplements to the:
- 143 (a) United States Pharmacopoeia;
144 (b) National Formulary; or
145 (c) Homeopathic Pharmacopoeia of the United States.
- 146 (13) (a) "Package" means a container or wrapping in which a consumer commodity is
147 enclosed for use in the delivery or display of the consumer commodity to retail purchasers.
- 148 (b) "Package" does not include:
- 149 (i) package liners;

150 (ii) shipping containers or wrapping used solely for the transportation of consumer
151 commodities in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail
152 distributors; or

153 (iii) shipping containers or outer wrappings used by retailers to ship or deliver a
154 consumer commodity to retail customers, if the containers and wrappings bear no printed
155 information relating to the consumer commodity.

156 (14) (a) "Pesticide" means a substance intended:

157 (i) to prevent, destroy, repel, or mitigate a pest, as defined under Subsection

158 4-14-2(20); or

159 (ii) for use as a plant regulator, defoliant, or desiccant.

160 (b) "Pesticide" does not include:

161 (i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by
162 the United States Secretary of Health and Human Services not to be a new animal drug by
163 federal regulation establishing conditions of use of the drug; or

164 (ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal
165 drug.

166 (15) "Principal display panel" means that part of a label that is most likely to be
167 displayed, presented, shown, or examined under normal and customary conditions of display
168 for retail sale.

169 (16) "Raw agricultural commodity" means a food in its raw or natural state, including
170 all fruits that are washed, colored, or otherwise treated in their unpeeled, natural form prior to
171 marketing.

172 (17) "Registration" means the issuance of a certificate by the commissioner to a
173 qualified food establishment.

174 Section 2. Section 4-8-4 is amended to read:

175 **4-8-4. Department functions, powers, and duties.**

176 [~~The department has and shall exercise the following functions, powers, and duties, in]~~
177 In addition to [those] the duties specified in Chapter 1, Short Title and General Provisions, the
178 department has the following functions, powers, and duties:

179 (1) general supervision over the marketing, sale, trade, advertising, storage, and
180 transportation practices, used in buying and selling products of agriculture in Utah;

181 (2) conduct and publish surveys and statistical analyses with its own resources or with
 182 the resources of others through contract, regarding the cost of production for products of
 183 agriculture, including transportation, processing, storage, advertising, and marketing costs;
 184 regarding market locations, demands, and prices for such products; and regarding market
 185 forecasts;

186 (3) assist and encourage producers of products of agriculture in controlling current and
 187 prospective production and market deliveries in order to stabilize product prices at prices
 188 which assure reasonable profits for producers and at the same time ensure adequate market
 189 supplies; ~~and]~~

190 (4) actively solicit input from the public and from interested groups or associations,
 191 through public hearings or otherwise, to assist in making fair determinations with respect to the
 192 production, marketing, and consumption of products of agriculture~~[-]; and~~

193 (5) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
 194 Rulemaking Act, in regard to "Utah's Own," a program dedicated to the promotion of locally
 195 produced products of agriculture.

196 Section 3. Section 4-11-2 is amended to read:

197 **4-11-2. Definitions.**

198 As used in this chapter:

199 (1) "Abandoned apiary" means any apiary~~[-(a)]~~ to which the owner or operator fails to
 200 give reasonable and adequate attention during a given year~~[-, with the result that the welfare of a~~
 201 ~~neighboring colony is jeopardized; or]~~ as determined by the department.

202 ~~[(b) that is not properly identified in accordance with this chapter.]~~

203 (2) "Apiary" means any place where one or more colonies of bees are located.

204 (3) "Apiary equipment" means hives, supers, frames, veils, gloves, or other equipment
 205 used to handle or manipulate bees, honey, wax, or hives.

206 (4) "Appliance" means any apparatus, tool, machine, or other device used to handle or
 207 manipulate bees, wax, honey, or hives.

208 (5) "Bee" means the common honey bee, *Apis mellifera*, at any stage of development.

209 (6) (a) "Beekeeper" means a person who keeps bees ~~[in order to:]~~.

210 ~~[(i) collect honey and beeswax;]~~

211 ~~[(ii) pollinate crops; or]~~

212 [~~(iii) produce bees for sale to other beekeepers.~~]

213 (b) "Beekeeper" includes an [~~apiarists~~] apiarist.

214 (7) "Colony" means an aggregation of bees in any type of hive that includes queens,
215 workers, drones, or brood.

216 (8) "Disease" means any infectious or contagious disease affecting bees, as specified by
217 the department, including American foulbrood.

218 (9) "Hive" means a frame hive, box hive, box, barrel, log, gum skep, or other artificial
219 or natural receptacle that may be used to house bees.

220 (10) "Package" means any number of bees in a bee-tight container, with or without a
221 queen, and without comb.

222 (11) "Parasite" means an organism that parasitizes any developmental stage of a bee.

223 (12) "Pest" means an organism that:

224 (a) inflicts damage to a bee or bee colony directly or indirectly; or

225 (b) may damage apiary equipment in a manner that is likely to have an adverse affect
226 on the health of the colony or an adjacent colony.

227 (13) "Raise" means:

228 (a) to hold a colony of bees in a hive for the purpose of pollination, honey production,
229 study, or similar purpose; and

230 (b) when the person holding a colony, holds the colony or a package of bees in the state
231 for a period of time exceeding 30 days.

232 (14) "Terminal disease" means a pest, parasite, or pathogen that will kill an occupant
233 colony or subsequent colony on the same equipment.

234 Section 4. Section ~~4-11-4~~ is amended to read:

235 **4-11-4. Bee raising -- Registration required -- Application -- Fees -- Renewal --**

236 **Wax-salvage plants -- License required -- Application -- Fees -- Renewal.**

237 (1) [~~(a)~~] A person may not raise bees in this state without being registered with the
238 department.

239 [~~(b)~~] (2) Application for registration to raise bees shall be made to the department upon
240 tangible or electronic forms prescribed and furnished by the department, within 30 days after
241 the person:

242 [~~(i)~~] (a) takes possession of the bees; or

243 ~~[(i)]~~ (b) moves the bees into the state.

244 ~~[(e)]~~ (3) Nothing in Subsection ~~[(1)(b)]~~ (2) limits the requirements of Section 4-11-11.

245 ~~[(d)]~~ (4) An application in accordance with this chapter shall specify:

246 ~~[(i)]~~ (a) the name and address of the applicant;

247 ~~[(i)]~~ (b) the number of bee colonies owned by the applicant at the time of the
248 application that will be present in the state for a period exceeding 30 days; and

249 ~~[(iii)]~~ (c) any other relevant information the department considers appropriate.

250 ~~[(e)]~~ (5) Upon receipt of a proper application and payment of an annual registration fee
251 determined by the department pursuant to Subsection 4-2-2(2), the commissioner shall issue a
252 registration to the applicant valid through December 31 of the year in which the registration is
253 issued, subject to suspension or revocation for cause.

254 ~~[(f)]~~ (6) A bee registration is renewable for a period of one year upon the payment of
255 an annual registration renewal fee as determined by the department pursuant to Subsection
256 4-2-2(2).

257 ~~[(g)]~~ (7) Registration shall be renewed on or before December 31 of each year.

258 ~~[(2)(a) A person may not operate a wax-salvage plant without a license issued by the
259 department.]~~

260 ~~[(b) Application for a license to operate a wax-salvage plant shall be made to the
261 department upon tangible or electronic forms prescribed and furnished by the department.]~~

262 ~~[(c) The application shall specify such information as the department considers
263 appropriate.]~~

264 ~~[(d) Upon receipt of a proper application and payment of a license fee as determined by
265 the department pursuant to Subsection 4-2-2(2), the commissioner, if satisfied that the
266 convenience and necessity of the industry and the public will be served, shall issue a license
267 entitling the applicant to operate a wax-salvage plant through December 31 of the year in
268 which the license is issued, subject to suspension or revocation for cause.]~~

269 ~~[(e) A wax-salvage license is renewable for a period of one year, on or before
270 December 31 of each year, upon the payment of an annual license renewal fee as determined by
271 the department pursuant to Subsection 4-2-2(2).]~~

272 Section 5. Section 4-11-13 is amended to read:

273 **4-11-13. Unlawful acts specified.**

274 It is unlawful for a person to:

275 (1) extract honey in any place where bees can gain access either during or after the
276 extraction process;

277 [~~(2) remove honey or wax, or attempt to salvage, or salvage any hives, apiary
278 equipment, or appliances from a diseased colony, except in a licensed wax-salvage plant,
279 unless specifically authorized by a county bee inspector or the commissioner;~~]

280 [~~(3)~~] (2) maintain any neglected or abandoned hives, apiary equipment, or appliances
281 other than in an enclosure that prohibits the entrance of bees;

282 [~~(4)~~] (3) raise bees without being registered with the department;

283 [~~(5) operate a wax-salvage plant without a license;~~]

284 [~~(6) store an empty hive body, apiary equipment, or appliances in a manner that may
285 propagate pests, disease, or bee feeding frenzy; or~~]

286 [~~(7)~~] (4) knowingly sell a colony, apiary equipment, or appliances that are inoculated
287 with terminal disease pathogens[-]; or

288 (5) create a feeding frenzy.

289 Section 6. Section ~~4-12-2~~ is amended to read:

290 **4-12-2. Definitions.**

291 As used in this chapter:

292 (1) "Adulterated commercial feed" means any commercial feed:

293 (a) (i) that contains any poisonous or deleterious substance that may render it injurious
294 to health;

295 (ii) that contains any added poisonous, added deleterious, or added nonnutritive
296 substance that is unsafe within the meaning of 21 U.S.C. Sec. 346, other than a pesticide
297 chemical in or on a raw agricultural commodity or a food additive;

298 (iii) that contains any food additive or color additive that is unsafe within the meaning
299 of 21 U.S.C. Sec. 348 or 379e;

300 (iv) that contains a pesticide chemical in or on a raw agricultural commodity which is
301 unsafe within the meaning of 21 U.S.C. Sec. 346a unless it is used in or on the raw agricultural
302 commodity in conformity with an exemption or tolerance prescribed under 21 U.S.C. Sec. 346a
303 and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so
304 that the residue, if any, of the pesticide chemical in or on such processed feed is removed to the

305 extent possible through good manufacturing practices as prescribed by rules of the department
 306 so that the concentration of the residue in the processed feed is not greater than the tolerance
 307 prescribed for the raw agricultural commodity in 21 U.S.C. Sec. 346a;

308 (v) that contains viable weed seeds in amounts exceeding limits established by rule of
 309 the department; [~~or~~]

310 (vi) that contains a drug that does not conform to good manufacturing practice as
 311 prescribed by federal regulations promulgated under authority of the Federal Food, Drug, and
 312 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., for medicated feed premixes and for medicated feeds
 313 unless the department determines that such regulations are not appropriate to the conditions
 314 that exist in this state; [~~or~~]

315 (vii) that consists, in whole or in part, of any filthy, putrid, or decomposed substance,
 316 or is otherwise unfit for feed; or

317 (viii) that has been prepared, packed, or held under unsanitary conditions so that the
 318 feed may have become contaminated with filth or otherwise rendered injurious to health; or

319 (b) that has a valuable constituent omitted or abstracted from it, in whole or in part, or
 320 its composition or quality falls below or differs from that represented on its label or in labeling.

321 (2) "Brand name" means any word, name, symbol, or device [~~that identifies the~~
 322 ~~distributor or registrant of a commercial feed.~~] or combination of word, name, symbol or
 323 device:

324 (a) identifying the commercial feed of a distributor or registrant; and

325 (b) distinguishing the commercial feed from the commercial feed of others.

326 (3) (a) [~~"Commercial~~] Subject to Subsection (3)(b), "commercial feed" means all
 327 materials, except unadulterated whole unmixed seeds or unadulterated physically altered entire
 328 unmixed seeds, that are distributed for use as feed or for mixing in feed[; ~~provided, that the~~].

329 (b) The department may exempt from [this] the definition in Subsection (3)(a) by rule[;
 330 ~~or from specific sections of this chapter, commodities such as] commodities like hay, straw,
 331 stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if the
 332 commodities, compounds, or substances are not:~~

333 (i) inter-mixed or mixed with other materials[;]; and [are not]

334 (ii) adulterated within the meaning of Subsection (1)(a).

335 (4) "Contract feeder" means a person:

336 (a) who is an independent contractor;

337 (b) who feeds commercial feed to an animal pursuant to the terms of a contract;

338 (c) to whom commercial feed is supplied, furnished, or otherwise provided to pursuant
 339 to the terms of a contract; and

340 (d) whose ~~Ĥ~~ ~~renumeration~~ remuneration ~~←Ĥ~~ is determined in whole or in part by feed
 340a consumption,
 341 mortality, profit, or amount or quality of product.

342 ~~[(4)]~~ (5) "Customer-formula feed" means commercial feed that consists of a mixture of
 343 commercial feeds or feed ingredients, each batch of which is manufactured according to the
 344 specific instructions of the final purchaser.

345 ~~[(5)]~~ (6) "Distribute" means to:

346 (a) offer for sale, sell, exchange, or barter commercial feed; or

347 (b) supply, furnish, or otherwise provide commercial feed to a contract feeder.

348 ~~[(6)]~~ (7) "Drug" means any article intended for use in the diagnosis, cure, mitigation,
 349 treatment, or prevention of disease in animals other than man and articles other than feed
 350 intended to affect the structure or any function of the animal body.

351 ~~[(7)]~~ (8) "Feed ingredient" means each constituent material in a commercial feed.

352 ~~[(8)]~~ (9) "Label" means any written, printed, or graphic matter upon or accompanying a
 353 commercial feed.

354 ~~[(9)]~~ (10) "Manufacture" means to grind, mix, blend, or otherwise process a
 355 commercial feed for distribution.

356 ~~[(10)]~~ (11) "Mineral feed" means a commercial feed intended to supply primarily
 357 mineral elements or inorganic nutrients.

358 ~~[(11)]~~ (12) "Misbranded" means any commercial feed, whether in a container or in
 359 bulk, that:

360 (a) bears a label that is false or misleading in any particular, ~~[or that]~~ if the commercial
 361 feed is distributed under the name of another commercial feed; or

362 (b) bears a label that does not strictly conform to the labeling requirements of Section
 363 4-12-5.

364 ~~[(12)]~~ (13) "Official sample" means a sample of commercial feed taken by the
 365 department in accordance with this chapter and designated as "official."

366 ~~[(13)]~~ (14) "Percent" or "percentage" means percentage by weight.

367 (15) "Pet" means a domesticated dog or cat.

368 (16) "Pet food" means a commercial feed prepared and distributed for consumption by
 369 a pet.

370 (17) "Product name" means the name of the commercial feed that:

371 (a) identifies the commercial feed as to kind, class, or specific use; and

372 (b) distinguishes the commercial feed from all other products bearing the same brand
 373 name.

374 (18) "Quantity statement" means the net weight in mass, liquid measurement, or count.

375 (19) "Specialty pet" means any domesticated animal normally maintained in a cage or
 376 tank, such as a gerbil, hamster, canary, psittacine bird, mynah, finch, tropical fish, goldfish,
 377 snake, or turtle.

378 (20) "Specialty pet food" means a commercial feed prepared and distributed for
 379 consumption by a specialty pet.

380 ~~[(14)]~~ (21) "Ton" means a net weight of 2,000 pounds avoirdupois.

381 Section 7. Section **4-12-3** is amended to read:

382 **4-12-3. Department authorized to make and enforce rules -- Cooperation with**
 383 **state and federal agencies authorized.**

384 (1) The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative
 385 Rulemaking Act, to make and enforce [~~such rules as in its judgment are necessary~~] rules to
 386 administer and enforce this chapter and may cooperate with, or enter into agreements with,
 387 other agencies of this state, other states, and agencies of the United States in the administration
 388 and enforcement of this chapter.

389 (2) In the interest of uniformity, the department shall by rule adopt the following,
 390 unless the department determines that they are inconsistent with the provisions of this chapter
 391 or are not appropriate to conditions that exist in this state:

392 (a) the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the
 393 Association of American Feed Control Officials and published in the official publication of
 394 that organization; and

395 (b) any federal regulation made pursuant to the authority of the Federal Food, Drug,
 396 and Cosmetic Act, U.S.C. Sec. 301 et seq., so long as the department would have the authority
 397 under this chapter to make a corresponding rule.

398 Section 8. Section 4-12-4 is amended to read:

399 **4-12-4. Distribution of commercial and customer-formula feed -- Registration or**
400 **permit required -- Application -- Fees -- Expiration -- Renewal.**

401 (1) (a) No person may distribute a commercial feed in this state which is not registered
402 with the department.

403 (b) Application for registration shall be made to the department upon forms prescribed
404 and furnished by it accompanied with an annual registration fee, determined by the department
405 pursuant to Subsection 4-2-2(2), for each brand name of commercial feed registered.

406 (c) Upon receipt of a proper application and payment of the appropriate fee, the
407 commissioner shall issue a registration to the applicant allowing the applicant to distribute the
408 registered commercial feed in this state through December 31 of the year in which the
409 registration is issued, subject to suspension or revocation for cause.

410 (2) (a) Subject to Subsection (2)(b), the department may:

411 (i) refuse registration to any commercial feed found not to be in compliance with the
412 provisions of this chapter; and

413 (ii) cancel any registration found to not be in compliance with any provision of this
414 chapter.

415 (b) No registration shall be refused or canceled unless the department gives the
416 registrant an opportunity to:

417 (i) be heard before the department; and

418 (ii) amend the registrant's application in order to comply with the requirements of this
419 chapter.

420 [~~2~~] (3) (a) A person who distributes customer-formula feed is not required to register
421 such feed, but is required to obtain a [~~permit~~] license from the department before distribution.

422 (b) Application for a customer-formula feed distribution [~~permit~~] license shall be made
423 to the department upon forms prescribed and furnished by [~~it~~] the department accompanied
424 with an annual [~~permit~~] license fee determined by the department pursuant to Subsection
425 4-2-2(2).

426 (c) Upon receipt by the department of a proper application and payment of the
427 appropriate fee as prescribed by the department, the commissioner shall issue a [~~permit~~] license
428 to the applicant allowing the applicant to distribute customer-formula feed in this state through

429 December 31 of the year in which the [~~permit~~] license is issued, subject to suspension or
 430 revocation for cause.

431 [~~(3)~~] (4) (a) Each registration is renewable for a period of one year upon the payment of
 432 an annual registration renewal fee in an amount equal to the current applicable original
 433 registration fee.

434 (b) Each renewal fee shall be paid on or before December 31 of each year.

435 [~~(4)~~] (5) (a) A customer-formula feed [~~permit~~] license is renewable for a period of one
 436 year upon the payment of an annual [~~permit~~] license renewal fee in an amount equal to the
 437 current applicable original [~~permit~~] license fee.

438 (b) Each [~~permit~~] license renewal fee shall be paid on or before December 31 of each
 439 year.

440 Section 9. Section 4-12-5 is amended to read:

441 **4-12-5. Labeling requirements for commercial and customer-formula feed**
 442 **specified.**

443 (1) Each container of commercial feed, except customer-formula feed, distributed in
 444 this state shall bear a label setting forth:

445 (a) the name and principal mailing address of the manufacturer, distributor, or
 446 registrant;

447 (b) the product or brand name, if any, under which [~~it~~] the commercial feed is
 448 distributed;

449 (c) the [~~feed ingredients~~] common name of each feed ingredient used in the
 450 commercial feed stated in the manner prescribed by rule of the department;

451 (d) the guaranteed analysis of the feed, expressed on an as-is basis:

452 (i) stated in terms that shall advise the user of the feed of the composition of the feed;

453 or

454 (ii) to support claims made in the labeling;

455 [~~(d) the net cumulative weight of the container and contents;~~]

456 (e) a quantity statement for the feed;

457 [~~(e)~~] (f) the lot number or some other means of lot identification; [~~and~~]

458 (g) adequate directions for safe and effective use; and

459 [~~(f)~~] (h) precautionary statements, if necessary, or any information prescribed by rule of

460 the department considered necessary for the safe and effective use of the feed.

461 (2) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative
462 Rulemaking Act, make rules to:

463 (a) authorize a label to use a collective term for a group of ingredients that perform a
464 similar function; and

465 (b) exempt a commercial feed type from the requirements of Subsection (1)(c) if the
466 department makes a finding that a full statement of ingredients is not required in the interest of
467 a consumer.

468 ~~[(2)]~~ (3) (a) Each bulk shipment of commercial feed, except customer-formula feed,
469 distributed in this state shall be accompanied with a printed or written statement specifying the
470 information in [Subsection] Subsections (1)(a) through [(f) of this section] (h).

471 (b) The statement shall be delivered to the purchaser at the time the bulk feed is
472 delivered.

473 ~~[(3)]~~ (4) Each container or bulk shipment of customer-formula feed distributed in this
474 state shall [bear a label or] be accompanied [with an] by a label, invoice, delivery slip, or other
475 shipping document setting forth:

476 (a) the name and principal mailing address of the manufacturer;

477 (b) the name and principal mailing address of the purchaser;

478 (c) the date of delivery;

479 ~~[(d) the net weight of each registered commercial feed used in the mixture and the net~~
480 ~~weight of each other ingredient used; and]~~

481 (d) the product name and quantity statement of each commercial feed and, except as
482 provided in Subsection (5), the quantity statement of each ingredient used in the mixture, stated
483 in terms the department determines necessary to advise the user of the composition of the feed
484 or to support claims made on the label;

485 (e) the directions for use and precautionary statements, if applicable; and

486 ~~[(e)]~~ (f) any information prescribed by rule of the department considered necessary for
487 the safe and effective use of the customer-formula feed.

488 (5) If the manufacturer of the customer-formula feed intends to protect a proprietary
489 formula, the information required by Subsection (4)(d) may be substituted for a guaranteed
490 analysis of each nutritional component for which the feed is intended to deliver, stated in terms

491 the department determines to be necessary to advise the user of the composition of the feed.

492 (6) If the customer-formula feed contains a drug, the label shall also include:

493 (a) the purpose of the medication; and

494 (b) the established name of each active drug ingredient and the level of each drug used

495 in the final mixture, expressed by weight, grams per ton, or milligrams per pound.

496 Section 10. Section 4-12-6 is amended to read:

497 **4-12-6. Enforcement -- Inspection and samples authorized -- Methods for**
498 **sampling and analysis prescribed -- Results to be forwarded to registrant or permittee --**
499 **Warrants.**

500 (1) The department:

501 (a) shall periodically sample, inspect, analyze, and test commercial feeds distributed
502 within this state [~~and may enter any public or private premises or vehicle for the purpose of~~
503 ~~determining compliance with this chapter. It may also in conjunction with such activities~~
504 ~~inspect records to determine]; and~~

505 (b) may enter during normal business hours, within reasonable limits and in a
506 reasonable manner, any factory, warehouse, or establishment in which commercial feed are
507 manufactured, processed, packed, or held for distribution, or enter any vehicle used to transport
508 or hold commercial feed, in order to inspect equipment, finished and unfinished materials,
509 containers, records, and labels in order to determine compliance with this chapter.

510 (2) Methods for sampling and for analyses of feed ingredients, mineral ingredients, or
511 other ingredients, or analyses of commercial feed mixtures (customer-formula feeds) shall be
512 made in accordance with methods published by the Association of Official Analytical Chemists
513 or other generally recognized methods.

514 (3) The department shall be guided by the official sample in determining whether a
515 commercial feed is misbranded, adulterated, or otherwise deficient.

516 (4) (a) The results of all tests of official samples shall be forwarded by the department
517 to the manufacturer, distributor, registrant₂ or permittee, as the case may be, to the address
518 specified on the container, label, or on the written statement or invoice.

519 (b) In addition to the requirements of Subsection (4)(a), the department shall furnish to
520 the manufacturer, distributor, registrant₂ or [permittee] licensee part of any official sample
521 [which it] that the department determines is misbranded or adulterated upon written request to

522 the department made by the manufacturer, distributor, registrant, or permittee within 30 days
523 after receipt of the unsatisfactory test results.

524 (5) The department may proceed immediately, if admittance is refused, to obtain an ex
525 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
526 for the purpose of making inspections and obtaining samples.

527 Section 11. Section 4-12-7 is amended to read:

528 **4-12-7. Suspension or revocation authorized -- Refusal to register or issue permit**
529 **authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action --**
530 **Procedure -- Costs.**

531 (1) The department may suspend or revoke the registration or [permit] license,
532 respectively, of any brand name of commercial feed or customer-formula feed, or refuse to
533 register or issue a [permit] license for any brand name or product of commercial feed, upon
534 satisfactory evidence that the manufacturer, distributor, registrant, or permittee has used
535 fraudulent or deceptive practices in the registration of a commercial feed or in the issuance of a
536 [permit] license, or in [its] the commercial feed's distribution in this state.

537 (2) The department may issue a "stop sale, use, or removal order" to the distributor or
538 owner of any designated commercial feed or lot of commercial feed which it finds or has
539 reason to believe is misbranded, adulterated, or is otherwise in violation of this chapter. The
540 order shall be in writing and no commercial feed subject to it shall be moved, offered, or
541 exposed for sale, except upon subsequent written release by the department. Before a release is
542 issued, the department may require the distributor or owner of the "stopped" commercial feed
543 or lot to pay the expense incurred by the department in connection with the withdrawal of the
544 product from the market.

545 (3) The department is authorized in a court of competent jurisdiction to seek an order
546 of seizure or condemnation of a commercial feed which violates this chapter or, upon proper
547 grounds, to obtain a temporary restraining order or permanent injunction to prevent the
548 violation of this chapter. No bond shall be required of the department in an injunctive
549 proceeding brought under this section.

550 (4) If condemnation is ordered, the commercial feed shall be disposed of as the court
551 directs; provided, that in no event shall it order condemnation without giving the registrant or
552 other person an opportunity to apply to the court for permission to relabel, reprocess, or

553 otherwise bring the commercial feed into conformance, or for permission to remove it from the
554 state.

555 (5) If the court orders condemnation, court costs, fees, storage, and other costs shall be
556 awarded against the claimant of the commercial feed.

557 Section 12. Section 4-12-8 is amended to read:

558 **4-12-8. Unlawful acts specified.**

559 No person in this state shall:

560 (1) manufacture or distribute adulterated or misbranded commercial feed;

561 (2) adulterate or misbrand any commercial feed;

562 (3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs,
563 husks, or bulbs which are adulterated;

564 (4) remove or dispose of any commercial feed in violation of a "stop sale, use, or
565 removal order[; "~~or~~"]";

566 (5) distribute any commercial feed [~~which~~] that is not registered or any
567 customer-formula feed [~~which~~] that is not subject to [~~permit.~~] license; or

568 (6) reuse a bag or tote that had been previously used for commercial feed, including a
569 customer-formula commercial feed, unless:

570 (a) the bag or tote has been appropriately cleaned; and

571 (b) the user documents the cleanout procedure used on the bag or tote.

572 Section 13. Section 4-14-8 is amended to read:

573 **4-14-8. Suspension or revocation -- Grounds -- Stop sale, use, or removal order**
574 **authorized -- Court action -- Procedure -- Award of costs authorized.**

575 (1) The department may revoke or suspend the registration of any pesticide upon
576 satisfactory evidence that the registrant has used fraudulent or deceptive practices in the
577 registration of the pesticide or in its distribution in this state.

578 (2) The department may issue a "stop sale, use, or removal order" to the owner or
579 distributor of any designated pesticide or lot of pesticide which it finds or has reason to believe
580 is being offered or exposed for sale in violation of this chapter. The order shall be in writing
581 and no pesticide subject to it shall be moved, offered, or exposed for sale, except upon the
582 subsequent written release by the department. Before a release is issued, the department may
583 require the owner or distributor of the "stopped" pesticide or lot to pay the expense incurred by

584 the department in connection with the withdrawal of the product from the market.

585 (3) The department is authorized in a court of competent jurisdiction to seek an order
586 of seizure or condemnation of a pesticide which violates this chapter or, upon proper grounds,
587 to obtain a temporary restraining order or permanent injunction to prevent the violation of this
588 chapter. No bond shall be required of the department in an injunctive proceeding brought under
589 this section.

590 (4) If condemnation is ordered, the pesticide or equipment shall be disposed of as the
591 court directs; provided, that in no event shall it order condemnation without giving the
592 registrant or other person an opportunity to apply to the court for permission to relabel,
593 reprocess, or otherwise bring the pesticide into conformance, or for permission to remove it
594 from the state.

595 (5) If the court orders condemnation, court costs, fees, storage, and other costs shall be
596 awarded against the claimant of the pesticide or equipment.

597 (6) The department may:

598 (a) deny an application for a pesticide applicator license;

599 (b) revoke a pesticide applicator license for cause; or

600 (c) suspend a pesticide applicator license for cause.

601 (7) (a) If a pesticide applicator license is revoked or suspended under Subsection (6),
602 the license shall be returned to the department within 14 days of the day on which the licensee
603 received notice of the revocation or suspension.

604 (b) A licensee who fails to return a license as described in Subsection (7)(a) may be
605 subjected to an administrative fine of up to \$100 for each 14 days the license is not returned.

606 Section 14. Section **4-18-105** is amended to read:

607 **4-18-105. Conservation Commission -- Functions and duties.**

608 (1) The commission shall:

609 (a) facilitate the development and implementation of the strategies and programs

610 necessary to:

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

612 and

613 (ii) promote the protection, integrity, and restoration of land for agricultural and other

614 beneficial purposes;

- 615 (b) disseminate information regarding districts' activities and programs;
- 616 (c) supervise the formation, reorganization, or dissolution of districts according to the
617 requirements of Title 17D, Chapter 3, Conservation District Act;
- 618 (d) prescribe uniform accounting and recordkeeping procedures for districts and
619 require each district to submit annually an audit of its funds to the commission;
- 620 (e) approve and make loans for agricultural purposes, through the advisory board
621 described in Section 4-18-106, from the Agriculture Resource Development Fund, for:
 - 622 (i) rangeland improvement and management projects;
 - 623 (ii) watershed protection and flood prevention projects;
 - 624 (iii) agricultural cropland soil and water conservation projects;
 - 625 (iv) programs designed to promote energy efficient farming practices; and
 - 626 (v) programs or improvements for agriculture product storage or protections of a crop
627 or animal resource;
- 628 (f) administer federal or state funds, including loan funds under this chapter, in
629 accordance with applicable federal or state guidelines and make loans or grants from those
630 funds to land occupiers for:
 - 631 (i) conservation of soil or water resources;
 - 632 (ii) maintenance of rangeland improvement projects;
 - 633 (iii) development and implementation of coordinated resource management plans, as
634 defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and
 - 635 (iv) control or eradication of noxious weeds and invasive plant species:
 - 636 (A) in cooperation and coordination with local weed boards; and
 - 637 (B) in accordance with Section 4-2-8.7;
 - 638 (g) seek to coordinate soil and water protection, conservation, and development
639 activities and programs of state agencies, local governmental units, other states, special interest
640 groups, and federal agencies;
 - 641 (h) plan watershed and flood control projects in cooperation with appropriate local,
642 state, and federal authorities, and coordinate flood control projects in the state;
 - 643 (i) assist other state agencies with conservation standards for agriculture when
644 requested; and
 - 645 (j) when assigned by the governor, when required by contract with the Department of

646 Environmental Quality, or when required by contract with the United States Environmental
647 Protection Agency:

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

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

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

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

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

658 (vi) establish administrative penalties relating to agricultural discharges as defined in
659 Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

660 (2) The commission may:

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

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

664 (c) take necessary action to promote and enforce the purpose and findings of Section
665 4-18-102;

666 (d) sue and be sued; and

667 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
668 Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and
669 Subsections (2)(b) and (c).

670 ~~[(3) If, under Subsection (2)(a), the commission employs an individual who was
671 formerly an employee of a conservation district or the Utah Association of Conservation
672 Districts, the Department of Human Resource Management shall:]~~

673 ~~[(a) recognize the employee's employment service credit from the conservation district
674 or association in determining leave accrual in the employee's new position within the state;
675 and]~~

676 ~~[(b) set the initial wage rate for the employee at the level that the employee was~~

677 receiving as an employee of the conservation district or association.]

678 [~~(4) An employee described in Subsection (3) is exempt from the career service~~
 679 ~~provisions of Title 67, Chapter 19, Utah State Personnel Management Act, and shall be~~
 680 ~~designated under schedule codes and parameters established by the Department of Human~~
 681 ~~Resource Management under Subsection 67-19-15(1)(p) until the commission, under~~
 682 ~~parameters established by the Department of Human Resource Management, designates the~~
 683 ~~employee under a different schedule recognized under Section 67-19-15:]~~

684 [~~(5) (a) For purposes of the report required by Subsection (5)(b), the commissioner~~
 685 ~~shall study the organizational structure of the employees described in Subsection (3):]~~

686 [~~(b) The commissioner shall report to the Natural Resources, Agriculture, and~~
 687 ~~Environmental Quality Appropriations Subcommittee by no later than that subcommittee's~~
 688 ~~November 2015 interim meeting regarding the study required by Subsection (5)(a):]~~

689 Section 15. Section 4-19-3 is amended to read:

690 **4-19-3. Loans -- Not to exceed period of 10 years -- Agricultural Advisory Board**
 691 **to approve loans and renewals, methods of payments, and interest rates -- Guidelines in**
 692 **fixing interest rates declared.**

693 (1) The department may not make a loan authorized under this chapter for a period to
 694 exceed 10 years but the loan is renewable.

695 (2) [~~The~~] Except as provided in Subsection (5), the Agricultural Advisory Board shall
 696 approve:

- 697 (a) all loans and renewals;
- 698 (b) the methods of repayment; and
- 699 (c) the interest rates charged.

700 (3) In fixing interest rates, the Agricultural Advisory Board shall consider:

- 701 (a) the current applicable interest rate or rates being charged by the USDA Farm
- 702 Service Agency on similar loans;
- 703 (b) the current prime rate charged by leading lending institutions; and
- 704 (c) any other pertinent economic data.

705 (4) The interest rates established shall be compatible with guidelines stated in this
 706 section.

707 (5) The Agricultural Advisory Board may create a subcommittee from the board's

708 membership to approve a loan or renewal under this section.

709 Section 16. Section **4-24-2** is amended to read:

710 **4-24-2. Definitions.**

711 As used in this chapter:

712 (1) "Brand" means any identifiable mark applied to livestock which is intended to show
713 ownership.

714 (2) "Carcass" means any part of the body of an animal, including hides, entrails, and
715 edible meats.

716 (3) "Domesticated elk" shall have the meaning as defined in Section [4-39-102](#).

717 (4) "Hide" means any skins or wool removed from livestock.

718 (5) "Livestock" means cattle, calves, horses, mules, sheep, goats, [~~hogs, or~~
719 ~~domesticated elk~~] or hogs.

720 (6) (a) "Livestock market" means a public market place consisting of pens or other
721 enclosures where cattle, calves, horses, or mules are received on consignment and kept for
722 subsequent sale, either through public auction or private sale.

723 (b) "Livestock market" does not mean:

724 (i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock
725 breeder, or feeder who is going out of business; or

726 (ii) a place where an association of livestock breeders under its own management,
727 offers registered livestock or breeding sires for sale and assumes all responsibility for the sale,
728 guarantees title to the livestock or sires sold, and arranges with the department for brand
729 inspection of all animals sold.

730 (7) "Mark" means any dulap, waddle, or cutting and shaping of the ears or brisket area
731 of livestock which is intended to show ownership.

732 (8) "Open range" means all land upon which cattle, sheep, or other domestic animals
733 are grazed or permitted to roam by custom, license, lease, or permit.

734 [~~(8)~~] (9) "Slaughterhouse" means any building, plant, or establishment where animals
735 are killed, dressed, or processed and their meat or meat products offered for sale for human
736 consumption.

737 Section 17. Section **4-24-11** is amended to read:

738 **4-24-11. Certificate of brand inspection necessary to carry out change of**

739 **ownership -- Exception.**

740 (1) (a) Except as provided in Subsection (2), the ownership of cattle, horses,
 741 [~~domesticated elk,~~] or mules may not be transferred to any other person, through sale or
 742 otherwise, without a certificate of brand inspection issued by a department brand inspector.

743 (b) Ownership of a domesticated elk in Utah may not be sold or transferred between
 744 licensed facilities without an intrastate movement of domesticated elk form, provided by the
 745 department.

746 (c) A copy of the completed form described in Subsection (1)(b) shall:

747 (i) accompany each animal in transit; and

748 (ii) be submitted:

749 (A) electronically; or

750 (B) mailed or faxed to the Division of Animal Industry within five days of the sale or
 751 transfer.

752 (2) (a) A brand inspection is not required to transfer ownership of dairy calves from the
 753 farm of origin under 60 days of age.

754 (b) Any person who transports dairy calves that have not been brand inspected pursuant
 755 to Subsection (2)(a) shall be required to show a sales invoice upon request.

756 Section 18. Section ~~4-24-17~~ is amended to read:

757 **4-24-17. Transportation of sheep, cattle, domesticated elk, horses, or mules --**
 758 **Brand certificate or other evidence of ownership required -- Transit permit -- Contents.**

759 (1) No person may transport any sheep, cattle, horses, [~~domesticated elk,~~] or mules
 760 without having an official state brand certificate or other proof of ownership in his possession.

761 (2) Domesticated elk moved intrastate:

762 (a) shall be accompanied with an intrastate movement of domesticated elk form
 763 provided by the department; and

764 (b) may only be moved from a licensed facility to another licensed facility.

765 (3) An official state brand inspection shall accompany all domesticated elk to be
 766 transported from this state to a place outside of this state.

767 [~~(2)~~] (4) Each person transporting livestock for another person shall have a transit
 768 permit signed by the owner or the owner's authorized agent specifying the:

769 (a) name of the person driving the vehicle;

- 770 (b) date of transportation;
- 771 (c) place of origin or loading;
- 772 (d) destination;
- 773 (e) date of issuance; [~~and~~]
- 774 (f) number of animals being transported[-]; and
- 775 (g) full description of an animal being transported.

776 Section 19. Section **4-31-111** is amended to read:

777 **4-31-111. Imported animals -- Health certificate.**

778 (1) Except as provided by rule made by the department, a person may not import an
779 animal into this state unless the animal is accompanied by a health certificate that:

- 780 ~~[(+)]~~ (a) meets the requirements of department rules; and
- 781 ~~[(2)]~~ (b) is issued by a federally accredited veterinarian.

782 (2) The department may require an entry permit before an animal is imported into the
783 state.

784 Section 20. Section **4-33-7** is amended to read:

785 **4-33-7. Inspection, sampling, testing, and analysis of fuels by department.**

786 (1) The department shall periodically sample, inspect, analyze and test motor fuels
787 dispensed in this state and may enter any public premises or vehicle for the purpose of
788 determining compliance with this chapter.

789 (2) (a) Methods of sampling, testing, analyzing, and designating motor fuels shall
790 ~~[accord with those]~~ conform with methods specified and published by the American Society for
791 Testing and Materials.

792 (b) ~~[The department shall use]~~ Unless modified by the department by rule, the latest
793 published standards of the American Society for Testing and Materials apply.

794 (3) Upon request the department shall pay the posted price for samples and the person
795 from whom the sample is taken shall give a signed receipt evidencing payment.

796 (4) Tests and analyses conducted by the department shall be prima facie evidence of
797 the facts shown by such tests in any court proceeding.

798 Section 21. Section **4-39-102** is amended to read:

799 **4-39-102. Definitions.**

800 As used in this chapter:

801 (1) "Domesticated elk" means elk of the genus and species [~~cervus~~] Cervus elaphus,
802 held in captivity and domestically raised for commercial purposes.

803 (2) "Domesticated elk facility" means a facility where only domesticated elk are raised
804 or hunted.

805 (3) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat
806 food product, antlers, or any part of a domesticated elk.

807 Section 22. Section **4-39-201** is amended to read:

808 **4-39-201. Fencing, posts, and gates.**

809 (1) Each domesticated elk facility shall, at a minimum, meet the requirements of this
810 section and shall be constructed to prevent the movement of domesticated elk and wild cervids
811 into or out of the facility.

812 (2) (a) All perimeter fences and gates shall be:

813 (i) touching the ground and reaching a minimum of eight feet above ground level; and

814 (ii) constructed of hi-tensile steel.

815 (b) At least the bottom four feet shall be mesh with a maximum mesh size of 6" x 6".

816 (c) The remaining four feet shall be mesh with a maximum mesh size of 12" x 6".

817 (3) The minimum wire gauge shall be 14-1/2 gauge for a 2 woven hi-tensile fence.

818 (4) All perimeter gates at the entrances of domesticated elk handling facilities shall be
819 locked, with consecutive or self-closing gates when animals are present.

820 (5) Posts shall be:

821 (a) (i) constructed of treated wood which is at least four inches in diameter; or

822 (ii) constructed of a material with the strength equivalent of Subsection (5)(a)(i);

823 (b) spaced no more than 30 feet apart if one stay is used, or 20 feet apart if no stays are
824 used; and

825 (c) at least eight feet above ground level and two feet below ground level.

826 (6) Stays, between the posts, shall be:

827 (a) constructed of treated wood or steel;

828 (b) spaced no more than 15 feet from any post; and

829 (c) at least eight feet above ground level, and two feet below ground level.

830 (7) Corner posts and gate posts shall be braced wood or its strength equivalent.

831 Section 23. Section **4-39-203** is amended to read:

832 **4-39-203. License required to operate a domesticated elk facility.**

833 (1) A person may not operate a domesticated elk facility without first obtaining a
834 license from the department.

835 (2) (a) Each application for a license to operate a domesticated elk facility shall be
836 accompanied by a fee.

837 (b) The fee shall be established by the department in accordance with Section
838 [63J-1-504](#).

839 (3) Each applicant for a domesticated elk facility license shall submit an application
840 providing all information in the form and manner as required by the department.

841 (4) (a) No license shall be issued until the department has inspected and approved the
842 facility.

843 (b) The department shall:

844 (i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled
845 inspection so that a Division of Wildlife Resources representative may be present at the
846 inspection; and

847 (ii) provide the Division of Wildlife Resources with copies of all licensing and
848 inspection reports.

849 (5) Each separate location of the domesticated elk operation shall be licensed
850 separately.

851 (6) (a) If a domesticated elk facility is operated under more than one business name
852 from a single location, the name of each operation shall be listed with the department in the
853 form and manner required by the department.

854 (b) The department shall require that a separate fee be paid for each business name
855 listed.

856 (c) If a domesticated elk facility operates under more than one business name from a
857 single location, ~~the~~ each facility shall maintain separate records.

858 (7) Each person or business entity with an equity interest in the domesticated elk shall
859 be listed on the application for license.

860 (8) Each domesticated elk facility license shall expire on July 1 in the year following
861 the year of issuance.

862 (9) Each licensee shall report to the department, in the form and manner required by

863 the department, any change in the information provided in the licensee's application or in the
864 reports previously submitted, within 15 days of each change.

865 (10) Licenses issued pursuant to this section are not transferable.

866 Section 24. Section **4-39-205** is amended to read:

867 **4-39-205. License renewal.**

868 (1) To renew a license, the licensee shall submit to the department:

869 (a) an inspection certificate showing that:

870 (i) the domesticated elk, on the domesticated elk facility, have been inspected and
871 certified by the department for health, proof of ownership, and genetic purity certification for
872 all elk imported into the state; and

873 (ii) the facility has been properly maintained as provided in this chapter during the
874 immediately preceding 60-day period; and

875 (b) a record of each purchase of domesticated elk and transfer of domesticated elk into
876 the facility, which shall include the following information:

877 (i) name, address, and health approval number of the source;

878 (ii) date of transaction; and

879 (iii) number and sex.

880 (2) (a) If the application for renewal is not received on or before April 30, a late fee
881 will be charged.

882 (b) A license may not be renewed until the fee is paid.

883 (3) If the application and fee for renewal are not received on or before July 1, the
884 license may not be renewed, and a new license shall be required.

885 Section 25. Section **4-39-206** is amended to read:

886 **4-39-206. Records to be maintained.**

887 (1) The following records and information shall be maintained by a domesticated elk
888 facility [~~for a period of five years~~] for the life of the animal plus two years:

889 (a) records of purchase, acquisition, distribution, and production histories of
890 domesticated elk;

891 (b) records documenting antler harvesting, production, and distribution; and

892 (c) health certificates and genetic purity records for all elk imported into the state as
893 provided in Section 4-39-301.

894 (2) For purposes of carrying out the provisions of this chapter and rules [~~promulgated~~]
895 made under this chapter and, at any reasonable time during regular business hours, the
896 department shall have free and unimpeded access to inspect all records required to be kept.

897 (3) The department may make copies of the records referred to in this section.

898 Section 26. Section **4-39-301** is amended to read:

899 **4-39-301. Health and genetic purity requirements -- Proof of source.**

900 [~~As part of any inspection for licensing or renewing the license of a domesticated elk~~
901 ~~facility, or for the importation, transportation, or change of ownership of any domesticated elk,~~
902 ~~the department shall require:]~~

903 [~~(1) proof of genetic testing to ensure the purity of the domesticated elk herds and~~
904 ~~prevent the introduction of red deer or hybrid nonnative species into domesticated elk herds in~~
905 ~~Utah by showing evidence of the purity of live animals, gametes, eggs, sperm, or other genetic~~
906 ~~material; and]~~

907 (1) The department shall require:

908 (a) domesticated elk, including gametes, eggs, or sperm, imported into the state to:

909 (i) test negative for the red deer genetic factor;

910 (ii) be registered with gold or silver status with the North American Elk Breeders
911 Association; or

912 (iii) come from a state that has a red deer genetic factor prevention program approved
913 by the department; and

914 [~~(2)] (b) proof that the domesticated elk originates from a legal source [as provided in~~
915 ~~Section 4-39-302].~~

916 (2) The information described in Subsection (1) constitutes genetic purity.

917 Section 27. Section **4-39-305** is amended to read:

918 **4-39-305. Transportation of domesticated elk to or from domesticated elk**
919 **facilities.**

920 (1) Any domesticated elk transferred to or from a domesticated elk facility within the
921 state shall be[:(1)] accompanied by [a brand inspection certificate] an intrastate movement of
922 domesticated elk form specifying the following:

923 (a) the name, address, and facility license number of the source;

924 (b) number, sex, and individual identification number; and

925 (c) name, address, and facility license number of the destination[;].
926 [~~(2) accompanied by proof of genetic purity as provided in Section 4-39-301; and]~~
927 [~~(3) inspected by the department as provided in Section 4-39-306.~~]

928 (2) The intrastate movement of domesticated elk form shall be submitted electronically
929 or mailed or faxed to the department within five business days of the transfer.

930 Section 28. Section 4-39-306 is amended to read:

931 **4-39-306. Movement, sale, or slaughter.**

932 [~~(1) Each domesticated elk facility licensee shall have the domesticated elk inspected~~
933 ~~by the department prior to any transportation, sale, removal of antlers, or slaughter.~~]

934 [~~(2)~~] (1) Any person transporting or possessing domesticated elk or domesticated elk
935 products from any place within this state to a place outside this state shall have the appropriate
936 brand inspection certificate in his or her possession.

937 (2) A brand inspection is required before any domesticated elk is slaughtered, pursuant
938 to Section 4-24-13.

939 Section 29. Section 4-39-401 is amended to read:

940 **4-39-401. Escape of domesticated elk -- Liability.**

941 (1) It is the owner's responsibility to try to capture any domesticated elk that may have
942 escaped.

943 (2) The escape of a domesticated elk shall be reported immediately to the [~~state~~
944 ~~veterinarian or a brand inspector of the Department of Agriculture who]~~ department that shall
945 notify the Division of Wildlife Resources.

946 (3) If the domesticated elk is not recovered within 72 hours of the escape, the
947 [~~Department of Agriculture]~~ department, in conjunction with the Division of Wildlife
948 Resources, shall take whatever action is necessary to resolve the problem.

949 (4) The owner shall reimburse the state or a state agency for any reasonable recapture
950 costs that may be incurred in the recapture or destruction of the animal.

951 (5) Any escaped domesticated elk taken by a licensed hunter in a manner which
952 complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the
953 Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the
954 state, nor a state agency shall be liable to the owner for the killing.

955 (6) The owner shall be responsible to contain the domesticated elk to ensure that there

956 is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk
957 is protected.

958 Section 30. Section **4-41-103** is amended to read:

959 **4-41-103. Industrial hemp -- Agricultural and academic research.**

960 (1) The department may grow or cultivate industrial hemp for the purpose of
961 agricultural or academic research.

962 (2) The department shall certify a higher education institution to grow or cultivate
963 industrial hemp for the purpose of agricultural or academic research if the higher education
964 institution submits to the department:

965 (a) the location where the higher education institution intends to grow or cultivate
966 industrial hemp;

967 (b) the higher education institution's research plan; and

968 (c) the name of an employee of the higher education institution who will supervise the
969 industrial hemp growth, cultivation, and research.

970 (3) The department shall maintain a list of each industrial hemp certificate holder.

971 (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
972 Administrative Rulemaking Act, to ensure any industrial hemp project meets the standards of
973 an agricultural pilot project, as defined by Section 7606 of the U.S. Agricultural Act of 2014.

974 (5) The department may set a fee for the application of an industrial hemp certificate.

975 Section 31. **Repealer.**

976 This bill repeals:

977 Section **4-36-1, Compact enacted and entered into.**

978 Section **4-36-2, Cooperation with Pest Control Insurance Fund.**

979 Section **4-36-3, Filing of compact.**

980 Section **4-36-4, Compact administrator.**

981 Section **4-36-5, Applications for assistance.**

982 Section **4-36-6, Disposition of money from compact insurance fund.**

983 Section **4-36-7, Executive head defined.**