

Representative Gage Froerer proposes the following substitute bill:

AQUACULTURE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: D. Gregg Buxton

LONG TITLE

General Description:

This bill modifies provisions regarding aquaculture.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ creates the Private Aquaculture Advisory Council;
- ▶ states that the Department of Agriculture and Food shall consider the recommendations of the Private Aquaculture Advisory Council when adopting rules;
- ▶ modifies the documentation requirements for a transfer or shipment of live aquatic animals;
- ▶ states that the Division of Wildlife Resources may authorize:
 - an aquaculture facility, public aquaculture facility, or fee fishing facility upon a natural lake or reservoir constructed on a natural stream channel under certain circumstances; and
 - a private fish pond on a natural lake or reservoir constructed on a natural stream channel under certain circumstances; and
- ▶ makes technical changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **4-37-103**, as last amended by Laws of Utah 2008, Chapter 69
- 33 **4-37-104**, as last amended by Laws of Utah 1998, Chapter 302
- 34 **4-37-105**, as last amended by Laws of Utah 1998, Chapter 302
- 35 **4-37-108**, as last amended by Laws of Utah 1998, Chapter 302
- 36 **4-37-109**, as last amended by Laws of Utah 2010, Chapter 378
- 37 **4-37-111**, as enacted by Laws of Utah 1994, Chapter 153
- 38 **4-37-201**, as last amended by Laws of Utah 2009, Chapter 183
- 39 **4-37-203**, as last amended by Laws of Utah 2010, Chapter 378
- 40 **4-37-204**, as last amended by Laws of Utah 2010, Chapter 378
- 41 **4-37-301**, as last amended by Laws of Utah 2009, Chapter 183
- 42 **23-13-2**, as last amended by Laws of Utah 2011, Chapter 297
- 43 **23-14-3**, as last amended by Laws of Utah 1995, Chapter 211
- 44 **23-15-10**, as last amended by Laws of Utah 2008, Chapter 69

45 ENACTS:

46 **23-14-2.8**, Utah Code Annotated 1953



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

49 Section 1. Section **4-37-103** is amended to read:

50 **4-37-103. Definitions.**

51 As used in this chapter:

- 52 (1) "Aquaculture" means the controlled cultivation of aquatic animals.
- 53 (2) (a) (i) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream
- 54 reservoir, or other structure used for aquaculture.
- 55 (ii) "Aquaculture facility" does not include any public aquaculture facility or fee fishing
- 56 facility.

57 (b) Structures that are separated by more than 1/2 mile, or structures that drain to or are
 58 modified to drain to, different drainages, are considered separate aquaculture facilities
 59 regardless of ownership.

60 (3) (a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean,
 61 or amphibian.

62 (b) "Aquatic animal" includes a gamete of any species listed in Subsection (3)(a).

63 (4) "Fee fishing facility" means a body of water used for holding or rearing fish for the
 64 purpose of providing fishing for a fee or for pecuniary consideration or advantage.

65 (5) "Natural flowing stream" means the same as that term is defined in Section
 66 [23-13-2](#).

67 (6) "Natural lake" means the same as that term is defined in Section [23-13-2](#).

68 [~~(5)(a)~~] (7) "Private fish pond" means [~~a body of water where privately owned fish are~~
 69 ~~propagated or kept for a noncommercial purpose~~] the same as that term is defined in Section
 70 [23-13-2](#).

71 [~~(b) "Private fish pond" does not include any aquaculture facility or fee fishing~~
 72 ~~facility.~~]

73 [~~(6)~~] (8) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream
 74 reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S.
 75 Fish and Wildlife Service, or an institution of higher education.

76 [~~(7)~~] (9) "Public fishery resource" means fish produced in public aquaculture facilities
 77 and wild and free ranging populations of fish in the surface waters of the state.

78 (10) "Reservoir constructed on a natural stream channel" means the same as that term
 79 is defined in Section [23-13-2](#).

80 (11) "Short-term fishing event" means the same as that term is defined in Section
 81 [23-13-2](#).

82 Section 2. Section **4-37-104** is amended to read:

83 **4-37-104. Department's responsibilities.**

84 (1) The department is responsible for[:] enforcing laws and rules made by the Wildlife
 85 Board governing species of aquatic animals which may be imported into the state or possessed
 86 or transported within the state that are applicable to aquaculture or fee fishing facilities.

87 [~~(a) the marketing and promotion of the state's aquaculture industry; and~~]

88 ~~[(b) enforcing laws and rules made by the Wildlife Board governing species of aquatic~~
89 ~~animals which may be imported into the state or possessed or transported within the state that~~
90 ~~are applicable to aquaculture or fee fishing facilities.]~~

91 (2) Subject to the policies and rules of the Fish Health Policy Board, the department
92 shall:

93 (a) act to prevent the outbreak and act to control the spread of disease-causing
94 pathogens among aquatic animals in aquaculture and fee fishing facilities; and

95 (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to
96 be deposited in, or harvested from aquaculture or fee fishing facilities to wild aquatic [~~wildlife~~]
97 animals, other animals, and humans.

98 Section 3. Section **4-37-105** is amended to read:

99 **4-37-105. Responsibilities of Wildlife Board and Division of Wildlife Resources.**

100 (1) The Wildlife Board and Division of Wildlife Resources are responsible for
101 determining the species of aquatic animals which may be imported into, possessed, and
102 transported within the state.

103 (2) Subject to the policies and rules of the Fish Health Policy Board, the Wildlife
104 Board and the Division of Wildlife Resources shall:

105 (a) act to prevent the outbreak and act to control the spread of disease-causing
106 pathogens among aquatic animals in public aquaculture facilities; and

107 (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to
108 be deposited in, or harvested from public aquaculture facilities and private ponds to wild
109 aquatic [~~wildlife~~] animals, other animals, and humans.

110 Section 4. Section **4-37-108** is amended to read:

111 **4-37-108. Prohibited activities.**

112 (1) Except as provided in this chapter, in the rules of the department made pursuant to
113 Section **4-37-109**, rules of the Fish Health Policy Board made pursuant to Section **4-37-503**, or
114 in the rules of the Wildlife Board governing species of aquatic animals which may be imported
115 into, possessed, [~~or~~] transported, or released within the state, a person may not:

116 (a) acquire, import, or possess aquatic animals intended for use in an aquaculture or fee
117 fishing facility;

118 (b) transport aquatic animals to or from an aquaculture or fee fishing facility;

119 (c) stock or propagate aquatic animals in an aquaculture or fee fishing facility; [or]

120 (d) harvest, transfer, or sell aquatic animals from an aquaculture or fee fishing

121 facility[-]; or

122 (e) release aquatic animals into the waters of the state.

123 (2) If a person commits an act in violation of Subsection (1) and that same act

124 constitutes wanton destruction of protected wildlife as provided in Section 23-20-4, the person

125 is guilty of a violation of Section 23-20-4.

126 Section 5. Section 4-37-109 is amended to read:

127 **4-37-109. Department to make rules.**

128 (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah

129 Administrative Rulemaking Act:

130 (a) specifying procedures for the application and renewal of certificates of registration

131 for operating an aquaculture or fee fishing facility; and

132 (b) governing the disposal or removal of aquatic animals from an aquaculture or fee

133 fishing facility for which the certificate of registration has lapsed or been revoked.

134 (2) (a) The department may make other rules consistent with its responsibilities set

135 forth in Section 4-37-104.

136 (b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall

137 be consistent with the suggested procedures for the detection and identification of pathogens

138 published by the American Fisheries Society's Fish Health Section.

139 (3) (a) The department shall consider the recommendations of the Private Aquaculture

140 Advisory Council established in Section 23-14-2.8 when adopting rules under Subsection (1).

141 (b) If the Private Aquaculture Advisory Council recommends a position or action to the

142 department pursuant to Section 23-14-2.8 and the department rejects the recommendation, the

143 department shall provide a written explanation to the council.

144 Section 6. Section 4-37-111 is amended to read:

145 **4-37-111. Prohibited sites.**

146 ~~[Aquaculture and fee fishing facilities]~~ (1) Except as provided in Subsection (2), an

147 ~~aquaculture facility or a fee fishing facility~~ may not be developed on:

148 ~~[(1)]~~ (a) a natural ~~[takes]~~ lake;

149 ~~[(2)]~~ (b) a natural flowing ~~[streams]~~ stream; or

150 ~~[(3) reservoirs]~~ (c) a reservoir constructed on a natural stream ~~[channels]~~ channel.

151 (2) The Division of Wildlife Resources may authorize an aquaculture facility, public
152 aquaculture facility, or fee fishing facility on a natural lake or reservoir constructed on a natural
153 stream channel upon inspecting and determining:

154 (a) the facility and inlet source of the facility neither contain wild game fish nor are
155 likely to support such species in the future;

156 (b) the facility and the facility's intended use will not jeopardize conservation of
157 aquatic wildlife or lead to the privatization or commercialization of aquatic wildlife;

158 (c) the facility is properly screened as provided in Subsection 23-15-10(3)(c) and
159 otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and
160 applicable law; and

161 (d) the facility is not vulnerable to flood or high water events capable of compromising
162 the facility's inlet or outlet screens and allowing escapement of privately owned fish into waters
163 of the state.

164 (3) Any authorization issued by the Division of Wildlife Resources under Subsection
165 (2) shall be in the form of a certificate of registration.

166 Section 7. Section 4-37-201 is amended to read:

167 **4-37-201. Certificate of registration required to operate an aquaculture facility.**

168 (1) A person may not operate an aquaculture facility without first obtaining a certificate
169 of registration from the department.

170 (2) (a) Each application for a certificate of registration to operate an aquaculture
171 facility shall be accompanied by a fee.

172 (b) The fee shall be established by the department in accordance with Section
173 63J-1-504.

174 (3) The department shall coordinate with the Division of Wildlife Resources:

175 (a) on the suitability of the proposed site relative to potential impacts on adjacent wild
176 aquatic ~~[wildlife]~~ animal populations; and

177 (b) in determining which species the holder of the certificate of registration may
178 propagate, possess, transport, or sell.

179 (4) The department shall list on the certificate of registration the species which the
180 holder may propagate, possess, transport, or sell.

181 Section 8. Section **4-37-203** is amended to read:

182 **4-37-203. Transportation of aquatic animals to or from aquaculture facilities.**

183 (1) Any person holding a certificate of registration for an aquaculture facility may
184 transport the live aquatic animals specified on the certificate of registration to the facility or to
185 any person who has been issued a certificate of registration or who is otherwise authorized by
186 law to possess those aquatic animals.

187 (2) Each transfer or shipment of live aquatic animals from or to an aquaculture facility
188 within the state shall be accompanied by documentation of the source and destination of the
189 fish, including:

190 (a) name, address, certificate of registration number and health approval number of the
191 source;

192 (b) number and weight being shipped, by species; [~~and~~]

193 (c) [~~name, address, and certificate of registration number~~] name of the recipient;

194 (d) address of the destination[~~-~~]; and

195 (e) (i) certificate of registration number of the receiving facility; or

196 (ii) location of the private fish pond or short-term fishing event when authorized to
197 receive the aquatic animal without a certificate of registration under Division of Wildlife
198 Resources rules.

199 Section 9. Section **4-37-204** is amended to read:

200 **4-37-204. Sale of aquatic animals from aquaculture facilities.**

201 (1) (a) Except as provided by Subsection (1)(b), a person holding a certificate of
202 registration for an aquaculture facility may take an aquatic animal as approved on the certificate
203 of registration from the facility at any time and offer the aquatic animal for sale; however, live
204 aquatic animals may be sold within Utah only to a person who:

205 (i) has been issued a certificate of registration to possess the aquatic animal[~~-~~]; or

206 (ii) is eligible to receive the aquatic animal without a certificate of registration under
207 Division of Wildlife Resources rules.

208 (b) A person who owns or operates an aquaculture facility may stock a live [~~aquatic~~
209 ~~animal~~] fish in a private fish pond or at a short-term fishing event if the person:

210 (i) obtains a health approval number for the aquaculture facility;

211 (ii) provides the [~~private fish pond's owner~~] buyer with a brochure published by the

212 Division of Wildlife Resources that summarizes the statutes and rules related to a private fish
213 pond or short-term fishing event and the possession of [~~an aquatic animal~~] fish;

214 (iii) inspects the [~~private fish~~] pond or holding facility to verify that the [~~private fish~~]
215 pond or facility is in compliance with Subsections 23-15-10(2) and (3)(c); and

216 (iv) stocks the species, strain, and reproductive capability of [~~aquatic animal~~] fish
217 authorized by the Wildlife Board in accordance with Section 23-15-10 for stocking in the area
218 where the [~~private fish~~] pond or holding facility is located.

219 (2) An aquatic animal sold or transferred by the owner or operator of an aquaculture
220 facility shall be accompanied by the seller's receipt that contains the following information:

221 (a) date of transaction;

222 (b) name, address, certificate of registration number, health approval number, and
223 signature of seller;

224 (c) number and weight of aquatic animal by:

225 (i) species;

226 (ii) strain; and

227 (iii) reproductive capability; and

228 (d) name and address of the receiver.

229 (3) (a) A person holding a certificate of registration for an aquaculture facility shall
230 submit to the department an annual report of each sale of live aquatic animals or each transfer
231 of live aquatic animals to:

232 (i) another aquaculture facility; or

233 (ii) a fee fishing facility.

234 (b) The report shall contain the following information:

235 (i) name, address, and certificate of registration number of the seller or supplier;

236 (ii) number and weight by species;

237 (iii) date of sale or transfer; and

238 (iv) name, address, phone number, and certificate of registration number of the
239 receiver.

240 (4) (a) A person who owns or operates an aquaculture facility shall submit to the
241 Division of Wildlife Resources an annual report of each sale or transfer of a live [~~aquatic~~
242 ~~animal~~] fish to a private fish pond or short-term fishing event.

- 243 (b) The report shall contain:
- 244 (i) the name, address, and health approval number of the person;
- 245 (ii) the name, address, and phone number of the private fish pond's owner or short-term
- 246 fishing event's operator;
- 247 (iii) the number and weight of [~~aquatic animal~~] fish by:
- 248 (A) species;
- 249 (B) strain; and
- 250 (C) reproductive capability;
- 251 (iv) date of sale or transfer;
- 252 (v) the location of the private fish pond's [~~location~~] or short-term fishing event's

253 holding facility; and

254 (vi) verification that the private fish pond or short-term fishing event's holding facility

255 was inspected and is in compliance with Subsections 23-15-10(2) and (3)(c).

- 256 (5) The reports required by Subsections (3) and (4) shall be submitted before:
- 257 (a) a certificate of registration is renewed or a subsequent certificate of registration is
- 258 issued for an aquaculture facility in the state; or
- 259 (b) a health approval number is issued for an out-of-state source.

260 Section 10. Section **4-37-301** is amended to read:

261 **4-37-301. Certificate of registration required to operate a fee fishing facility.**

262 (1) A person may not operate a fee fishing facility without first obtaining a certificate

263 of registration from the department.

264 (2) (a) Each application for a certificate of registration to operate a fee fishing facility

265 shall be accompanied by a fee.

266 (b) The fee shall be established by the department in accordance with Section

267 **63J-1-504**.

268 (3) The department shall coordinate with the Division of Wildlife Resources:

269 (a) on the suitability of the proposed site relative to potential impacts on adjacent wild

270 aquatic [~~wildlife~~] animal populations; and

271 (b) in determining which species the holder of the certificate of registration may

272 possess or transport to or stock into the facility.

273 (4) The department shall list on the certificate of registration the species which the

274 holder may possess or transport to or stock into the facility.

275 (5) A person holding a certificate of registration for an aquaculture facility may also
276 operate a fee fishing facility without obtaining an additional certificate of registration, if the fee
277 fishing facility:

278 (a) is in a body of water meeting the criteria of Section 4-37-111 which is connected
279 with the aquaculture facility;

280 (b) contains only those aquatic animals specified on the certificate of registration for
281 the aquaculture facility; and

282 (c) is designated on the certificate of registration for the aquaculture facility.

283 Section 11. Section 23-13-2 is amended to read:

284 **23-13-2. Definitions.**

285 As used in this title:

286 (1) "Activity regulated under this title" means any act, attempted act, or activity
287 prohibited or regulated under any provision of Title 23, Wildlife Resources Code of Utah, or
288 the rules, and proclamations promulgated thereunder pertaining to protected wildlife including:

289 (a) fishing;

290 (b) hunting;

291 (c) trapping;

292 (d) taking;

293 (e) permitting any dog, falcon, or other domesticated animal to take;

294 (f) transporting;

295 (g) possessing;

296 (h) selling;

297 (i) wasting;

298 (j) importing;

299 (k) exporting;

300 (l) rearing;

301 (m) keeping;

302 (n) utilizing as a commercial venture; and

303 (o) releasing to the wild.

304 [(4)] (2) "Aquaculture facility" [~~has the meaning provided~~] means the same as that term

305 is defined in Section 4-37-103.

306 [~~(2)~~] (3) "Aquatic animal" [~~has the meaning provided~~] means the same as that term is
307 defined in Section 4-37-103.

308 [~~(3)~~] (4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic
309 insects, or amphibians.

310 (5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife
311 that one person may legally take during one day.

312 (6) "Big game" means species of hoofed protected wildlife.

313 (7) "Carcass" means the dead body of an animal or its parts.

314 (8) "Certificate of registration" means a document issued under this title, or any rule or
315 proclamation of the Wildlife Board granting authority to engage in activities not covered by a
316 license, permit, or tag.

317 (9) "Closed season" means the period of time during which the taking of protected
318 wildlife is prohibited.

319 (10) "Conservation officer" means a full-time, permanent employee of the Division of
320 Wildlife Resources who is POST certified as a peace or a special function officer.

321 (11) "Dedicated hunter program" means a program that provides:

322 (a) expanded hunting opportunities;

323 (b) opportunities to participate in projects that are beneficial to wildlife; and

324 (c) education in hunter ethics and wildlife management principles.

325 (12) "Division" means the Division of Wildlife Resources.

326 (13) (a) "Domicile" means the place:

327 (i) where an individual has a fixed permanent home and principal establishment;

328 (ii) to which the individual if absent, intends to return; and

329 (iii) in which the individual, and the individual's family voluntarily reside, not for a
330 special or temporary purpose, but with the intention of making a permanent home.

331 (b) To create a new domicile an individual shall:

332 (i) abandon the old domicile; and

333 (ii) be able to prove that a new domicile has been established.

334 (14) "Endangered" means wildlife designated as endangered according to Section 3 of
335 the federal Endangered Species Act of 1973.

336 (15) "Fee fishing facility" [~~has the meaning provided~~] means the same as that term is
337 defined in Section 4-37-103.

338 (16) "Feral" means an animal that is normally domesticated but has reverted to the
339 wild.

340 (17) "Fishing" means to take fish or crayfish by any means.

341 (18) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and
342 Castoridae families, except coyote and cougar.

343 (19) "Game" means wildlife normally pursued, caught, or taken by sporting means for
344 human use.

345 (20) "Guide" means a person who receives compensation or advertises services for
346 assisting another person to take protected wildlife, including the provision of food, shelter, or
347 transportation, or any combination of these.

348 (21) "Guide's agent" means a person who is employed by a guide to assist another
349 person to take protected wildlife.

350 (22) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any
351 means.

352 (23) "Intimidate or harass" means to physically interfere with or impede, hinder, or
353 diminish the efforts of an officer in the performance of the officer's duty.

354 (24) (a) "Natural flowing stream" means a topographic low where water collects and
355 perennially or intermittently flows with a perceptible current in a channel formed exclusively
356 by forces of nature.

357 (b) "Natural flowing stream" includes perennial or intermittent water flows in a:

358 (i) realigned or modified channel that replaces the historic, natural flowing stream
359 channel; and

360 (ii) dredged natural flowing stream channel.

361 (c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or
362 other water delivery system that diverts and conveys water to an approved place of use
363 pursuant to a certificated water right.

364 (25) (a) "Natural lake" means a perennial or intermittent body of water that collects on
365 the surface of the earth exclusively through the forces of nature and without human assistance.

366 (b) "Natural lake" does not mean a lake where all surface water sources supplying the

367 body of water originate from groundwater springs no more than 100 yards upstream.

368 [~~(24)~~] (26) "Nonresident" means a person who does not qualify as a resident.

369 [~~(25)~~] (27) "Open season" means the period of time during which protected wildlife
370 may be legally taken.

371 [~~(26)~~] (28) "Pecuniary gain" means the acquisition of money or something of monetary
372 value.

373 [~~(27)~~] (29) "Permit" means a document, including a stamp, that grants authority to
374 engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

375 [~~(28)~~] (30) "Person" means an individual, association, partnership, government agency,
376 corporation, or an agent of the foregoing.

377 [~~(29)~~] (31) "Possession" means actual or constructive possession.

378 [~~(30)~~] (32) "Possession limit" means the number of bag limits one individual may
379 legally possess.

380 [~~(31)~~] (33) (a) "Private fish pond" means a pond, reservoir, or other body of water,
381 including a fish culture system, located on privately owned land where privately owned[;
382 protected aquatic wildlife] fish:

383 (i) are propagated or kept for a private noncommercial purpose[:]; and

384 (ii) may be taken without a fishing license.

385 (b) "Private fish pond" does not include an aquaculture facility [or], fee fishing
386 facility[:], short-term fishing event, or private stocking.

387 (34) (a) "Private stocking" means an authorized release of privately owned, live fish in
388 the waters of the state not eligible as a private fish pond under Section 23-15-10 or aquaculture
389 facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

390 (b) Fish released under private stocking become the property of the state and subject to
391 the fishing regulations set forth in this title and the rules and proclamations of the Wildlife
392 Board.

393 [~~(32)~~] (35) "Private wildlife farm" means an enclosed place where privately owned
394 birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

395 (a) commingling with wild birds or furbearers; and

396 (b) escaping into the wild.

397 [~~(33)~~] (36) "Proclamation" means the publication used to convey a statute, rule, policy,

398 or pertinent information as it relates to wildlife.

399 ~~[(34)]~~ (37) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in
400 Subsection (3), except as provided in Subsection ~~[(34)]~~ (37)(b).

401 (b) "Protected aquatic wildlife" does not include aquatic insects.

402 ~~[(35)]~~ (38) (a) "Protected wildlife" means wildlife as defined in Subsection ~~[(49)]~~ (54),
403 except as provided in Subsection ~~[(35)]~~ (38)(b).

404 (b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel,
405 jack rabbit, muskrat, and raccoon.

406 ~~[(36)]~~ (39) "Released to the wild" means to be turned loose from confinement.

407 (40) (a) "Reservoir constructed on a natural stream channel" means a body of water
408 collected and stored on the course of a natural flowing stream by impounding the stream
409 through excavation or diking.

410 (b) "Reservoir constructed on a natural stream channel" does not mean an
411 impoundment on a natural flowing stream where all surface water sources supplying the
412 impoundment originate from groundwater springs no more than 100 yards upstream.

413 ~~[(37)]~~ (41) (a) "Resident" means a person who:

414 (i) has been domiciled in the state for six consecutive months immediately preceding
415 the purchase of a license; and

416 (ii) does not claim residency for hunting, fishing, or trapping in any other state or
417 country.

418 (b) A Utah resident retains Utah residency if that person leaves this state:

419 (i) to serve in the armed forces of the United States or for religious or educational
420 purposes; and

421 (ii) the person complies with Subsection ~~[(37)]~~ (41)(a)(ii).

422 (c) (i) A member of the armed forces of the United States and dependents are residents
423 for the purposes of this chapter as of the date the member reports for duty under assigned
424 orders in the state if the member:

425 (A) is not on temporary duty in this state; and

426 (B) complies with Subsection ~~[(37)]~~ (41)(a)(ii).

427 (ii) A copy of the assignment orders shall be presented to a wildlife division office to
428 verify the member's qualification as a resident.

429 (d) A nonresident attending an institution of higher learning in this state as a full-time
430 student may qualify as a resident for purposes of this chapter if the student:

431 (i) has been present in this state for 60 consecutive days immediately preceding the
432 purchase of the license; and

433 (ii) complies with Subsection [~~(37)~~] (41)(a)(ii).

434 (e) A Utah resident license is invalid if a resident license for hunting, fishing, or
435 trapping is purchased in any other state or country.

436 (f) An absentee landowner paying property tax on land in Utah does not qualify as a
437 resident.

438 [~~(38)~~] (42) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the
439 act of selling, bartering, exchanging, or trading.

440 (43) (a) "Short-term fishing event" means any event where privately acquired fish are
441 held or confined for a period not to exceed ten days for the purpose of providing fishing or
442 recreational opportunity and where no fee is charged as a requirement to fish.

443 (b) A fishing license is not required to take fish at a short-term fishing event.

444 [~~(39)~~] (44) "Small game" means species of protected wildlife:

445 (a) commonly pursued for sporting purposes; and

446 (b) not classified as big game, aquatic wildlife, or furbearers and excluding turkey,
447 cougar, and bear.

448 [~~(40)~~] (45) "Spoiled" means impairment of the flesh of wildlife which renders it unfit
449 for human consumption.

450 [~~(41)~~] (46) "Spotlighting" means throwing or casting the rays of any spotlight,
451 headlight, or other artificial light on any highway or in any field, woodland, or forest while
452 having in possession a weapon by which protected wildlife may be killed.

453 [~~(42)~~] (47) "Tag" means a card, label, or other identification device issued for
454 attachment to the carcass of protected wildlife.

455 [~~(43)~~] (48) "Take" means to:

456 (a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected
457 wildlife; or

458 (b) attempt any action referred to in Subsection [~~(43)~~] (48)(a).

459 [~~(44)~~] (49) "Threatened" means wildlife designated as such pursuant to Section 3 of the

460 federal Endangered Species Act of 1973.

461 [~~(45)~~] (50) "Trapping" means taking protected wildlife with a trapping device.

462 [~~(46)~~] (51) "Trophy animal" means an animal described as follows:

463 (a) deer - a buck with an outside antler measurement of 24 inches or greater;

464 (b) elk - a bull with six points on at least one side;

465 (c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

466 (d) moose - a bull with at least one antler exceeding five inches in length;

467 (e) mountain goat - a male or female;

468 (f) pronghorn antelope - a buck with horns exceeding 14 inches; or

469 (g) bison - a bull.

470 [~~(47)~~] (52) "Waste" means to abandon protected wildlife or to allow protected wildlife
471 to spoil or to be used in a manner not normally associated with its beneficial use.

472 [~~(48)~~] (53) "Water pollution" means the introduction of matter or thermal energy to
473 waters within this state that:

474 (a) exceeds state water quality standards; or

475 (b) could be harmful to protected wildlife.

476 [~~(49)~~] (54) "Wildlife" means:

477 (a) crustaceans, including brine shrimp and crayfish;

478 (b) mollusks; and

479 (c) vertebrate animals living in nature, except feral animals.

480 Section 12. Section **23-14-2.8** is enacted to read:

481 **23-14-2.8. Private Aquaculture Advisory Council.**

482 (1) The executive director of the department may establish a Private Aquaculture
483 Advisory Council to give advice and make recommendations to the:

484 (a) commissioner of the Department of Agriculture and Food on rules adopted under
485 Subsection [4-37-109\(1\)](#); and

486 (b) Wildlife Board on rules adopted concerning the regulation of:

487 (i) private fish ponds;

488 (ii) private stocking;

489 (iii) short-term fishing events; and

490 (iv) aquatic animal species authorized for importation or use in aquaculture facilities,

491 fee fishing facilities, private fish ponds, short-term fishing events, and private stocking.

492 (2) The advisory council shall consist of 10 members appointed to four-year terms by
493 the executive director of the department, in consultation with the commissioner of the
494 Department of Agriculture and Food and the director of the division, as follows:

495 (a) two members representing the division selected from four or more names submitted
496 by the director of the division;

497 (b) two members representing the Department of Agriculture and Food selected from
498 four or more names submitted by the commissioner of the Department of Agriculture and
499 Food;

500 (c) one member representing angling interests selected from two or more names
501 submitted by a nonprofit corporation that promotes sport fishing;

502 (d) two members representing the private aquaculture industry selected from four or
503 more names submitted by a nonprofit corporation that promotes the aquaculture industry; and

504 (e) three members representing private ponds or fee fishing facilities selected from six
505 or more names submitted by a nonprofit corporation that promotes the aquaculture industry.

506 (3) Notwithstanding the requirements of Subsection (2), the executive director shall, at
507 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
508 advisory council members are staggered so that approximately half of the advisory council is
509 appointed every two years.

510 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
511 appointed for the unexpired term.

512 (5) (a) Six members of the advisory council shall constitute a quorum.

513 (b) A quorum is necessary for the advisory council to act.

514 (c) Advisory council recommendations to the commissioner and Wildlife Board
515 pursuant to Subsection (1) shall be supported by majority vote.

516 (d) The advisory council shall elect a chair and vice chair from the advisory council's
517 membership.

518 (e) The advisory council shall determine:

519 (i) the time and place of meetings, not to exceed four meetings per calendar year; and

520 (ii) other procedural matters not specified in this Subsection (5).

521 (6) A member may not receive compensation or benefits for the member's service, but

522 may receive per diem and travel expenses in accordance with:

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

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

525 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

526 63A-3-107.

527 Section 13. Section 23-14-3 is amended to read:

528 **23-14-3. Powers of division to determine facts -- Policymaking powers of Wildlife**
529 **Board.**

530 (1) The Division of Wildlife Resources may determine the facts relevant to the wildlife
531 resources of this state.

532 (2) (a) Upon a determination of these facts, the Wildlife Board shall establish the
533 policies best designed to accomplish the purposes and fulfill the intent of all laws pertaining to
534 wildlife and the preservation, protection, conservation, perpetuation, introduction, and
535 management of wildlife.

536 (b) In establishing policy, the Wildlife Board shall:

537 (i) recognize that wildlife and its habitat are an essential part of a healthy, productive
538 environment;

539 (ii) recognize the impact of wildlife on man, his economic activities, private property
540 rights, and local economies;

541 (iii) seek to balance the habitat requirements of wildlife with the social and economic
542 activities of man;

543 (iv) recognize the social and economic values of wildlife, including fishing, hunting,
544 and other uses; and

545 (v) seek to maintain wildlife on a sustainable basis.

546 (c) (i) The Wildlife Board shall consider the recommendations of the regional advisory
547 councils established in Section 23-14-2.6 and the Private Aquaculture Advisory Council
548 established in Section 23-14-2.8.

549 (ii) If a regional advisory council or the Private Aquaculture Advisory Council
550 recommends a position or action to the Wildlife Board, and the Wildlife Board rejects the
551 recommendation, the Wildlife Board shall provide a written explanation to the [regional]
552 advisory council recommending the opposing position.

553 (3) No authority conferred upon the Wildlife Board by this title shall supersede the
554 administrative authority of the executive director of the Department of Natural Resources or
555 the director of the Division of Wildlife Resources.

556 Section 14. Section **23-15-10** is amended to read:

557 **23-15-10. Private fish pond.**

558 (1) A private fish pond is not required to obtain a certificate of registration from the
559 division to receive ~~[an aquatic animal]~~ fish from an aquaculture facility~~[-]~~ if:

560 (a) the pond is properly screened as provided in Subsection (3)(c); and

561 (b) the fish species being stocked is authorized by this chapter or rules of the Wildlife
562 Board.

563 (2) (a) [A] Except as provided in Subsection (2)(b), a private fish pond or a short-term
564 fishing event may not be developed or held on:

565 ~~[(a)]~~ (i) a natural lake;

566 ~~[(b)]~~ (ii) a natural flowing stream; or

567 ~~[(c)]~~ (iii) a reservoir constructed on a natural stream channel.

568 (b) The division may authorize a private fish pond on a natural lake or reservoir
569 constructed on a natural stream channel upon inspecting and determining:

570 (i) the pond and inlet source of the pond neither contain wild game fish nor are likely
571 to support such species in the future;

572 (ii) the pond and the pond's intended use will not jeopardize conservation of aquatic
573 wildlife populations or lead to the privatization or commercialization of aquatic wildlife;

574 (iii) the pond is properly screened as provided in Subsection (3)(c) and otherwise in
575 compliance with the requirements of this title, rules of the Wildlife Board, and applicable law;
576 and

577 (iv) the pond is not vulnerable to flood or high water events capable of compromising
578 the pond's inlet or outlet screens allowing escapement of privately owned fish into waters of the
579 state.

580 (c) Any authorization issued by the division under Subsection (2)(b) shall be in the
581 form of a certificate of registration.

582 (3) A person who owns or operates a private fish pond may receive ~~[an aquatic animal]~~
583 a fish from an aquaculture facility if:

584 (a) the aquaculture facility has a health approval number required by Section [4-37-501](#);

585 (b) the species, strain, and reproductive capability of the ~~[aquatic animal]~~ fish is
586 authorized by the Wildlife Board in accordance with Subsection (4) for stocking in the area
587 where the private fish pond is located;

588 (c) the private fish pond is screened in accordance with the Wildlife Board's rule to
589 prevent ~~[an aquatic animal]~~ the fish from moving into or out of the private fish pond;

590 (d) the ~~[aquatic animal]~~ fish is not:

591 (i) released from the private fish pond; or

592 (ii) transported live to another location; and

593 (e) the person provides the aquaculture facility with a signed statement that the private
594 fish pond is in compliance with this section.

595 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
596 Wildlife Board may make rules that:

597 (a) specify the screen requirements to prevent the movement of ~~[an aquatic animal]~~
598 fish into or out of the private fish pond;

599 (b) specify the ~~[aquatic animal]~~ fish species that may not be stocked in a private fish
600 pond located in the state; ~~[and]~~

601 (c) establish a location or region where a specified species, strain, and reproductive
602 capability of ~~[aquatic animal]~~ fish may be stocked in a private fish pond~~[-]; and~~

603 (d) specify procedures and requirements for authorizing development of a private fish
604 pond, fee fishing facility, or aquaculture facility on a natural lake, natural flowing stream, or
605 reservoir on a natural stream channel pursuant to Subsection (2) and Section [4-37-111](#).

606 (5) The division may inspect a private fish pond to verify compliance with this section
607 and rules of the Wildlife Board.