

HB0338S02 compared with HB0338S01

~~{deleted text}~~ shows text that was in HB0338S01 but was deleted in HB0338S02.

Inserted text shows text that was not in HB0338S01 but was inserted into HB0338S02.

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~~{Representative Mike K}~~Senator David P. {McKell}Hinkins proposes the following substitute bill:

AGRICULTURE MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Agricultural Code and authorizes the Department of Agriculture ~~{code}~~ and Food to license a cannabis payment processor.~~{}~~

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ 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

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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;
- ▶ modifies the length of time a domesticated elk facility shall maintain records;
- ▶ authorizes the Department of Agriculture and Food to set a fee for the application of an industrial hemp certificate;
- ▶ describes the procedure for licensing a cannabis payment processor;
- ▶ creates the Cannabis Payment Processor Restricted Account; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 4-5-2, as last amended by Laws of Utah 2007, Chapter 146
- 4-8-4, as last amended by Laws of Utah 2010, Chapter 324
- 4-11-2, as last amended by Laws of Utah 2014, Chapter 411
- 4-11-4, as last amended by Laws of Utah 2010, Chapter 73
- 4-11-13, as last amended by Laws of Utah 2010, Chapter 73
- 4-12-2, as last amended by Laws of Utah 2007, Chapter 179
- 4-12-3, as last amended by Laws of Utah 2008, Chapter 382
- 4-12-4, as last amended by Laws of Utah 1985, Chapter 130
- 4-12-5, as last amended by Laws of Utah 2007, Chapter 179
- 4-12-6, as enacted by Laws of Utah 1979, Chapter 2

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4-12-7, as enacted by Laws of Utah 1979, Chapter 2
4-12-8, as enacted by Laws of Utah 1979, Chapter 2
4-14-8, as enacted by Laws of Utah 1979, Chapter 2
4-18-105, as last amended by Laws of Utah 2016, Chapter 19
4-19-3, as last amended by Laws of Utah 2007, Chapter 179
4-24-2, as last amended by Laws of Utah 2010, Chapter 378
4-24-11, as last amended by Laws of Utah 1997, Chapter 302
4-24-17, as last amended by Laws of Utah 1997, Chapter 302
4-31-111, as renumbered and amended by Laws of Utah 2012, Chapter 331
4-33-7, as enacted by Laws of Utah 1981, Chapter 8
4-39-102, as enacted by Laws of Utah 1997, Chapter 302
4-39-201, as last amended by Laws of Utah 2010, Chapter 378
4-39-203, as last amended by Laws of Utah 2009, Chapter 183
4-39-205, as last amended by Laws of Utah 2010, Chapter 378
4-39-206, as last amended by Laws of Utah 2010, Chapter 378
4-39-301, as enacted by Laws of Utah 1997, Chapter 302
4-39-305, as last amended by Laws of Utah 2010, Chapter 378
4-39-306, as last amended by Laws of Utah 2010, Chapter 378
4-39-401, as last amended by Laws of Utah 2014, Chapter 189
4-41-103, as enacted by Laws of Utah 2014, Chapter 25

ENACTS:

4-42-101, Utah Code Annotated 1953
4-42-102, Utah Code Annotated 1953
4-42-201, Utah Code Annotated 1953
4-42-202, Utah Code Annotated 1953
4-42-203, Utah Code Annotated 1953
4-42-204, Utah Code Annotated 1953
4-42-301, Utah Code Annotated 1953
4-42-401, Utah Code Annotated 1953

REPEALS:

4-36-1, as enacted by Laws of Utah 1985, Chapter 191

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4-36-2, as enacted by Laws of Utah 1985, Chapter 191

4-36-3, as last amended by Laws of Utah 1997, Chapter 82

4-36-4, as last amended by Laws of Utah 1997, Chapter 82

4-36-5, as enacted by Laws of Utah 1985, Chapter 191

4-36-6, as enacted by Laws of Utah 1985, Chapter 191

4-36-7, as enacted by Laws of Utah 1985, Chapter 191

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

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

4-5-2. Definitions.

As used in this chapter:

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

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

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

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

(b) "Consumer commodity" does not include:

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

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

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

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

(v) a tobacco or tobacco product; or

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

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

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

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

(7) "Food" means:

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

(b) chewing gum or its components; or

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

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

(b) "Food additive" does not include:

(i) a pesticide chemical in or on a raw agricultural commodity;

(ii) a pesticide chemical that is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity; or

(iii) a substance used in accordance with a sanction or approval granted pursuant to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.

(9) (a) "Food establishment" means a grocery store, bakery, candy factory, food, farm, processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are grown, manufactured, canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.

(b) "Food establishment" does not include:

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(i) a dairy farm, a dairy plant, or a meat establishment, which is subject to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.; or

(ii) a farmers market.

(10) "Label" means a written, printed, or graphic display on the immediate container of an article of food. The department may require that a label contain specific written, printed, or graphic information which is:

(a) displayed on the outside container or wrapper of a retail package of an article; or

(b) easily legible through the outside container or wrapper.

(11) "Labeling" means a label and other written, printed, or graphic display:

(a) on an article of food or its containers or wrappers; or

(b) accompanying the article of food.

(12) "Official compendium" means the official documents or supplements to the:

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

(13) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.

(b) "Package" does not include:

(i) package liners;

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

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

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

(i) to prevent, destroy, repel, or mitigate a pest, as defined under Subsection 4-14-2(20); or

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

(b) "Pesticide" does not include:

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

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

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

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

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

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

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

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

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

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

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

(4) actively solicit input from the public and from interested groups or associations, through public hearings or otherwise, to assist in making fair determinations with respect to the

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production, marketing, and consumption of products of agriculture[-]; and

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

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

4-11-2. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(12) "Pest" means an organism that:

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

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

(13) "Raise" means:

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

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

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

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

4-11-4. Bee raising -- Registration required -- Application -- Fees -- Renewal -- Wax-salvage plants -- License required -- Application -- Fees -- Renewal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4-11-13. Unlawful acts specified.

It is unlawful for a person to:

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

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

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

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

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

~~[(6)]~~ store an empty hive body, apiary equipment, or appliances in a manner that may

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~~propagate pests, disease, or bee feeding frenzy; or]~~

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

~~(5) create a feeding frenzy.~~

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

4-12-2. Definitions.

As used in this chapter:

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

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

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

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

(iv) that contains a pesticide chemical in or on a raw agricultural commodity which is unsafe within the meaning of 21 U.S.C. Sec. 346a unless it is used in or on the raw agricultural commodity in conformity with an exemption or tolerance prescribed under 21 U.S.C. Sec. 346a and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so that the residue, if any, of the pesticide chemical in or on such processed feed is removed to the extent possible through good manufacturing practices as prescribed by rules of the department so that the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity in 21 U.S.C. Sec. 346a;

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

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

(vii) that consists, in whole or in part, of any filthy, putrid, or decomposed substance,

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or is otherwise unfit for feed; or

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

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

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

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

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

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

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

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

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

(4) "Contract feeder" means a person:

(a) who is an independent contractor;

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

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

(d) whose {renumeration}remuneration is determined in whole or in part by feed consumption, mortality, profit, or amount or quality of product.

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

~~(5)~~ (6) "Distribute" means to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Upon receipt of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing the applicant to distribute the registered commercial feed in this state through December 31 of the year in which the

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registration is issued, subject to suspension or revocation for cause.

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

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

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

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

(i) be heard before the department; and

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

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

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

(c) Upon receipt by the department of a proper application and payment of the appropriate fee as prescribed by the department, the commissioner shall issue a [permit] license to the applicant allowing the applicant to distribute customer-formula feed in this state through December 31 of the year in which the [permit] license is issued, subject to suspension or revocation for cause.

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

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

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

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

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

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

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

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

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

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

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

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

or

(ii) to support claims made in the labeling;

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

(e) a quantity statement for the feed;

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

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

~~[(f)]~~ (h) precautionary statements, if necessary, or any information prescribed by rule of the department considered necessary for the safe and effective use of the feed.

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

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

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

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

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

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

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

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

(c) the date of delivery;

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

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

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

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

(5) If the manufacturer of the customer-formula feed intends to protect a proprietary formula, the information required by Subsection (4)(d) may be substituted for a guaranteed analysis of each nutritional component for which the feed is intended to deliver, stated in terms the department determines to be necessary to advise the user of the composition of the feed.

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

(a) the purpose of the medication; and

(b) the established name of each active drug ingredient and the level of each drug used in the final mixture, expressed by weight, grams per ton, or milligrams per pound.

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

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

(1) The department:

(a) shall periodically sample, inspect, analyze, and test commercial feeds distributed

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within this state [~~and may enter any public or private premises or vehicle for the purpose of determining compliance with this chapter. It may also in conjunction with such activities inspect records to determine~~]; and

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

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

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

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

(b) In addition to the requirements of Subsection (4)(a), the department shall furnish to the manufacturer, distributor, registrant, or ~~[permittee]~~ licensee part of any official sample ~~[which it]~~ that the department determines is misbranded or adulterated upon written request to the department made by the manufacturer, distributor, registrant, or permittee within 30 days after receipt of the unsatisfactory test results.

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

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

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

(1) The department may suspend or revoke the registration or ~~[permit]~~ license, respectively, of any brand name of commercial feed or customer-formula feed, or refuse to

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register or issue a [permit] license for any brand name or product of commercial feed, upon satisfactory evidence that the manufacturer, distributor, registrant, or permittee has used fraudulent or deceptive practices in the registration of a commercial feed or in the issuance of a [permit] license, or in [its] the commercial feed's distribution in this state.

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

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

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

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

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

4-12-8. Unlawful acts specified.

No person in this state shall:

- (1) manufacture or distribute adulterated or misbranded commercial feed;
- (2) adulterate or misbrand any commercial feed;
- (3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs, husks, or bulbs which are adulterated;

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

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

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

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

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

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

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

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

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

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

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

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

(6) The department may:

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

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

(c) suspend a pesticide applicator license for cause.

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

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

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

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

(1) The commission shall:

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

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

and

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

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

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

(d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually an audit of its funds to the commission;

(e) approve and make loans for agricultural purposes, through the advisory board described in Section 4-18-106, from the Agriculture Resource Development Fund, for:

(i) rangeland improvement and management projects;

(ii) watershed protection and flood prevention projects;

(iii) agricultural cropland soil and water conservation projects;

(iv) programs designed to promote energy efficient farming practices; and

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(v) programs or improvements for agriculture product storage or protections of a crop or animal resource;

(f) administer federal or state funds, including loan funds under this chapter, in accordance with applicable federal or state guidelines and make loans or grants from those funds to land occupiers for:

(i) conservation of soil or water resources;

(ii) maintenance of rangeland improvement projects;

(iii) development and implementation of coordinated resource management plans, as defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and

(iv) control or eradication of noxious weeds and invasive plant species:

(A) in cooperation and coordination with local weed boards; and

(B) in accordance with Section 4-2-8.7;

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies;

(h) plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities, and coordinate flood control projects in the state;

(i) assist other state agencies with conservation standards for agriculture when requested; and

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

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

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

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

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

(v) meet the requirements of federal law related to water and air pollution in the

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exercise of its powers and duties; and

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

(2) The commission may:

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

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

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

(d) sue and be sued; and

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

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

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

~~[(b) set the initial wage rate for the employee at the level that the employee was receiving as an employee of the conservation district or association.]~~

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

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

~~[(b) The commissioner shall report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than that subcommittee's~~

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November 2015 interim meeting regarding the study required by Subsection (5)(a):]

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

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

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

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

(a) all loans and renewals;

(b) the methods of repayment; and

(c) the interest rates charged.

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

(a) the current applicable interest rate or rates being charged by the USDA Farm Service Agency on similar loans;

(b) the current prime rate charged by leading lending institutions; and

(c) any other pertinent economic data.

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

(5) The Agricultural Advisory Board may create a subcommittee from the board's membership to approve a loan or renewal under this section.

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

4-24-2. Definitions.

As used in this chapter:

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

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

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

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

(5) "Livestock" means cattle, calves, horses, mules, sheep, goats, ~~[hogs, or~~

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~~domesticated elk]~~ or hogs.

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

(b) "Livestock market" does not mean:

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

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

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

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

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

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

4-24-11. Certificate of brand inspection necessary to carry out change of ownership -- Exception.

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

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

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

(i) accompany each animal in transit; and

(ii) be submitted;

~~(A) } electronically~~ or

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

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

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

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

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

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

(2) Domesticated elk moved intrastate:

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

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

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

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

(a) name of the person driving the vehicle;

(b) date of transportation;

(c) place of origin or loading;

(d) destination;

(e) date of issuance; [~~and~~]

(f) number of animals being transported[-]; and

(g) full description of an animal being transported.

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

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

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

~~(1)~~ (a) meets the requirements of department rules; and

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~~[(2)]~~ (b) is issued by a federally accredited veterinarian.

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

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

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

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

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

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

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

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

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

4-39-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

(ii) constructed of hi-tensile steel.

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

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

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

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

(5) Posts shall be:

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

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

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

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

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

(a) constructed of treated wood or steel;

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

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

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

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

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

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

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

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

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

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

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(b) The department shall:

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

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

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

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

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

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

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

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

(9) Each licensee shall report to the department, in the form and manner required by the department, any change in the information provided in the licensee's application or in the reports previously submitted, within 15 days of each change.

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

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

4-39-205. License renewal.

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

(a) an inspection certificate showing that:

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

(ii) the facility has been properly maintained as provided in this chapter during the

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immediately preceding 60-day period; and

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

- (i) name, address, and health approval number of the source;
- (ii) date of transaction; and
- (iii) number and sex.

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

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

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

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

4-39-206. Records to be maintained.

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

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

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

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

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

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

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

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

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

~~[(1) proof of genetic testing to ensure the purity of the domesticated elk herds and prevent the introduction of red deer or hybrid nonnative species into domesticated elk herds in~~

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~~Utah by showing evidence of the purity of live animals, gametes, eggs, sperm, or other genetic material; and]~~

(1) The department shall require:

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

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

(ii) be registered with gold or silver status with the North American Elk Breeders

Association; or

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

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

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

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

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

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

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

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

(c) name, address, and facility license number of the destination~~[-];~~.

~~[(2) accompanied by proof of genetic purity as provided in Section 4-39-301; and]~~

~~[(3) inspected by the department as provided in Section 4-39-306.]~~

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

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

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

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

~~[(2)]~~ (1) Any person transporting or possessing domesticated elk or domesticated elk products from any place within this state to a place outside this state shall have the appropriate

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brand inspection certificate in his or her possession.

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

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

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

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

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

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

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

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

(6) The owner shall be responsible to contain the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

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

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

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

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

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

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- (b) the higher education institution's research plan; and
 - (c) the name of an employee of the higher education institution who will supervise the industrial hemp growth, cultivation, and research.
- (3) The department shall maintain a list of each industrial hemp certificate holder.
- (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure any industrial hemp project meets the standards of an agricultural pilot project, as defined by Section 7606 of the U.S. Agricultural Act of 2014.
- (5) The department may set a fee for the application of an industrial hemp certificate.

Section 31. Section 4-42-101 is enacted to read:

CHAPTER 42. CANNABIS PAYMENT PROCESSOR

Part 1. Administrator

4-42-101. Title.

This chapter is known as "Cannabis Payment Processor."

Section 32. Section 4-42-102 is enacted to read:

4-42-102. Definitions.

As used in this chapter:

(1) "Cannabinoid product" means a substance that:

(a) contains cannabis; and

(b) is intended for human medical use.

(2) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

(3) "Cannabis payment processor" means a person that facilitates payment:

(a) without using cash;

(b) electronically; and

(c) (i) (A) for cannabis, from a cannabis producer to another cannabis producer;

(B) for cannabis or cannabinoid product testing, from a cannabis producer to a cannabis laboratory; or

(C) for a cannabinoid product, from a cannabinoid dispensary to a cannabis producer;

or

(ii) for a cannabinoid product, from a patient to a cannabinoid dispensary.

Section 33. Section 4-42-201 is enacted to read:

Part 2. Cannabis Payment Processor License

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4-42-201. Cannabis payment processor -- License.

(1) A person may not act as a cannabis payment processor without a license issued by the department under this section.

(2) An applicant for a cannabis payment processor license shall:

(a) submit to the department:

(i) the applicant's name, business address, and place of incorporation;

(ii) the name of each owner, officer, director, board member, shareholder owning more than 5% of the outstanding shares of the applicant entity, agent, employee, or volunteer of the applicant; and

(iii) a fee, in accordance with Section 4-42-202; and

(b) present evidence to the department that:

(i) the applicant is capable of electronically receiving and distributing funds;

(ii) the applicant has a partnership, service agreement, or service contract with a federally insured depository institution that agrees to clear cannabinoid product transactions, or carries a liability insurance policy with a limit of no less than \$10,000,000.00;

(iii) the applicant is able to interface with an electronic monitoring system to enable an individual to add funds, using a bank wire or a credit card, to an account and use the funds in the individual's account; and

(iv) the applicant is, at minimum a level one payment card industry data security standard-validated provider capable of integrating with an in-state payment processor or any payment processors already contracted with the state;

(C) able to demonstrate that the provider has made more than twenty million electronic payment transactions during the 24 months before the provider applies for a license; and

(D) capable of establishing both prepaid and monthly invoiced accounts for collection and disbursement of funds.

(3) A license issued under this section is valid for two years.

Section 34. Section 4-42-202 is enacted to read:

4-42-202. Department duties.

(1) The department may set a fee for an application for a cannabis payment processor license.

(2) The department may determine, by rule made in accordance with Title 63G,

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Chapter 3, Utah Administrative Rulemaking Act:

(a) any information in addition to the requirements of Section 4-42-201 an applicant for a cannabis payment processor is required to submit to the department; and

(b) procedural requirements for an applicant for a license under this chapter.

(3) The department shall issue a cannabis payment processor license if an applicant meets the requirements described in Section 4-42-201 and requirements established in rule according to Subsection (2), and if the department determines the requirements of Section 4-42-204 have been met.

(4) An applicant for which the department denies an application is entitled to administrative review.

(5) The department shall deposit all application fees, whether original or for renewal, into the Cannabis Payment Processor Restricted Account created in Section 4-42-401.

Section 35. Section 4-42-203 is enacted to read:

4-42-203. Renewal.

The department shall renew a person's cannabis payment processor license every two years if, at the time of renewal, the person:

(1) meets the requirements of Section 4-42-201 and any rules established under Section 4-42-202; and

(2) pays the department a license renewal fee in an amount that is the same as the licensing fee determined by the department in accordance with Section 4-42-202.

Section 36. Section 4-42-204 is enacted to read:

4-42-204. Number of licenses -- Criteria for awarding a license.

(1) The department may issue up to a number of cannabis payment processor licenses determined by the department.

(2) The department shall evaluate an applicant for a cannabis payment processor license to determine to what extent the applicant has demonstrated:

(a) experience with:

(i) establishing and running a business in a related field;

(ii) operating a payment processing system;

(iii) complying with a regulatory environment; and

(iv) training, evaluating, and monitoring employees;

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(b) connections to the local community;

(c) that the applicant will keep the cost of the applicant's products or services low; and

(d) that the applicant will maximize convenience, efficiency, and security for processing cannabinoid product payments.

Section 37. Section 4-42-301 is enacted to read:

Part 3. Enforcement

4-42-301. Examination -- Administrative action.

(1) The department may examine the records or activities of a cannabis payment processor at any time to determine if the cannabis payment processor is complying with this chapter.

(2) If the department determines that a person is acting as a cannabis payment processor without a license issued under this section, the department may:

(a) order the person to cease and desist from acting as a cannabis payment processor;
and

(b) assess the person a fine in an amount determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) If the department determines that a person with a cannabis payment processor license issued by the department has violated this chapter, the department may:

(a) order the person to cease and desist from the violation;

(b) assess the person a fine in an amount determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(c) revoke the person's license.

(4) The department shall deposit fines that the department collects under this section into the Cannabis Payment Processor Restricted Account created in Section 4-42-401.

Section 38. Section 4-42-401 is enacted to read:

Part 4. Finances

4-42-401. Cannabis Payment Processor Restricted Account -- Creation.

(1) There is created in the General Fund a restricted account known as the "Cannabis Payment Processor Restricted Account."

(2) The account created in this section is funded from:

(a) money deposited by the department under this chapter, including fees and fines; and

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(b) the interest described in Subsection (3).

(3) Interest earned on the account is deposited into the account.

Section ~~{31}~~39. Repealer.

This bill repeals:

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

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

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

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

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

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

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