

**UTAH AGRICULTURAL CODE AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Lee B. Perry

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Utah Commercial Feed Act, Utah Seed Act, Utah Noxious Weed Act, and the Utah Livestock Brand and Anti-Theft Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ describes the circumstances under which the department can refuse or cancel a commercial feed registration;
- ▶ changes labeling requirements for commercial feed;
- ▶ changes labeling requirements for seed;
- ▶ adds nonprofit organization to the list of entities that:
  - the department can enter into a cooperative agreement with; and
  - can receive money from the Invasive Species Mitigation Account;
- ▶ specifies requirements for transporting domesticated elk;
- ▶ specifies unlawful acts; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **4-16-102**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 31 **4-16-201**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 32 **4-16-202**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 33 **4-17-114**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 34 **4-17-115**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 35 **4-24-102**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 36 **4-24-104**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 37 **4-24-303**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 38 **4-24-307**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 39 **4-24-502**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 40 **4-39-205**, as last amended by Laws of Utah 2017, Chapter 345
- 41 **4-39-304**, as last amended by Laws of Utah 2017, Chapter 345
- 42 **4-39-305**, as last amended by Laws of Utah 2017, Chapter 345
- 43 **4-39-306**, as last amended by Laws of Utah 2017, Chapter 345
- 44 **4-39-401**, as last amended by Laws of Utah 2017, Chapter 345

45 RENUMBERS AND AMENDS:

- 46 **4-12-101**, (Renumbered from 4-12-1, as last amended by Laws of Utah 1992, Chapter
- 47 30)
- 48 **4-12-102**, (Renumbered from 4-12-2, as last amended by Laws of Utah 2007, Chapter
- 49 179)
- 50 **4-12-103**, (Renumbered from 4-12-3, as last amended by Laws of Utah 2008, Chapter
- 51 382)
- 52 **4-12-104**, (Renumbered from 4-12-4, as last amended by Laws of Utah 2017, Chapter
- 53 345)
- 54 **4-12-105**, (Renumbered from 4-12-5, as last amended by Laws of Utah 2007, Chapter
- 55 179)
- 56 **4-12-106**, (Renumbered from 4-12-6, as enacted by Laws of Utah 1979, Chapter 2)
- 57 **4-12-107**, (Renumbered from 4-12-7, as enacted by Laws of Utah 1979, Chapter 2)
- 58 **4-12-108**, (Renumbered from 4-12-8, as enacted by Laws of Utah 1979, Chapter 2)

59

60 *Be it enacted by the Legislature of the state of Utah:*61 Section 1. Section **4-12-101**, which is renumbered from Section 4-12-1 is renumbered  
62 and amended to read:63 **CHAPTER 12. UTAH COMMERCIAL FEED ACT**64 ~~[4-12-1]~~. **4-12-101. Title.**

65 This chapter is known as the "Utah Commercial Feed Act."

66 Section 2. Section **4-12-102**, which is renumbered from Section 4-12-2 is renumbered  
67 and amended to read:68 ~~[4-12-2]~~. **4-12-102. Definitions.**

69 As used in this chapter:

70 (1) "Adulterated commercial feed" means any commercial feed that:71 (a) (i) ~~[that]~~ contains any poisonous or deleterious substance that may render it  
72 injurious to health;73 (ii) ~~[that]~~ contains any added poisonous, added deleterious, or added nonnutritive  
74 substance that is unsafe within the meaning of 21 U.S.C. Sec. 346, other than a pesticide  
75 chemical in or on a raw agricultural commodity or a food additive;76 (iii) ~~[that]~~ contains any food additive or color additive that is unsafe within the  
77 meaning of 21 U.S.C. Sec. 348 or 379e;78 (iv) ~~[that]~~ contains a pesticide chemical in or on a raw agricultural commodity [~~which~~]  
79 that is unsafe within the meaning of 21 U.S.C. Sec. 346a unless it is used in or on the raw  
80 agricultural commodity in conformity with an exemption or tolerance prescribed under 21  
81 U.S.C. Sec. 346a and is subjected to processing such as canning, cooking, freezing,  
82 dehydrating, or milling, so that the residue, if any, of the pesticide chemical in or on [~~such~~] the  
83 processed feed is removed to the extent possible through good manufacturing practices as  
84 prescribed by rules of the department so that the concentration of the residue in the processed  
85 feed is not greater than the tolerance prescribed for the raw agricultural commodity in 21  
86 U.S.C. Sec. 346a;87 (v) ~~[that]~~ contains viable weed seeds in amounts exceeding limits established by rule of  
88 the department; [~~or~~]89 (vi) ~~[that]~~ contains a drug that does not conform to good manufacturing practice as

90 prescribed by federal regulations promulgated under authority of the Federal Food, Drug, and  
91 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., for medicated feed premixes and for medicated feeds  
92 unless the department determines that ~~[such]~~ the regulations are not appropriate to the  
93 conditions that exist in this state; ~~[or]~~

94 (vii) contains any filthy, putrid, or decomposed substance, or is otherwise unfit for  
95 feed; or

96 (viii) has been prepared, packed, or held under unsanitary conditions; or

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

100 (2) "Brand name" means ~~[any word, name, symbol, or device that identifies the~~  
101 ~~distributor or registrant of a commercial feed.]~~ one or more words, names, symbols, or devices  
102 that:

103 (a) identify a distributor or registrant's commercial feed; and

104 (b) distinguish the distributor or registrant's commercial feed from the commercial feed  
105 of others.

106 ~~[(3) "Commercial feed" means all materials, except unadulterated whole unmixed~~  
107 ~~seeds or unadulterated physically altered entire unmixed seeds, that are distributed for use as~~  
108 ~~feed or for mixing in feed; provided, that the department may exempt from this definition by~~  
109 ~~rule, or from specific sections of this chapter, commodities such as hay, straw, stover, silage,~~  
110 ~~cobs, husks, hulls, and individual chemical compounds or substances if the commodities,~~  
111 ~~compounds, or substances are not inter-mixed or mixed with other materials, and are not~~  
112 ~~adulterated within the meaning of Subsection (1)(a).]~~

113 (3) (a) "Commercial feed" means all materials that are distributed for use as feed or for  
114 mixing in feed.

115 (b) "Commercial feed" does not include:

116 (i) unadulterated, whole, unmixed seeds;

117 (ii) unadulterated, physically altered, entire, unmixed seeds; or

118 (iii) any unadulterated commodity that the department specifies by rule made in  
119 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including hay,  
120 straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances,

121 unless the commodities, compounds, or substances are intermixed or mixed with other  
 122 materials.

123 (4) "Contract feeder" means a person who:

124 (a) is an independent contractor; and

125 (b) in accordance with the terms of a contract:

126 (i) is provided commercial feed;

127 (ii) feeds the commercial feed to an animal; and

128 (iii) receives remuneration that is calculated in whole or in part by feed consumption,  
 129 mortality, profit, product amount, or product quality.

130 ~~[(4)]~~ (5) "Customer-formula feed" means commercial feed that consists of a mixture of  
 131 commercial feeds or feed ingredients, each batch of which is manufactured according to the  
 132 specific instructions of the final purchaser.

133 ~~[(5)]~~ (6) "Distribute" means to:

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

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

136 ~~[(6)]~~ (7) "Drug" means any article intended:

137 (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in  
 138 animals other than ~~[man and articles other than feed intended]~~ humans; and

139 (b) to affect the structure or any function of the animal body, unless the article is feed.

140 ~~[(7)]~~ (8) "Feed ingredient" means each constituent material in a commercial feed.

141 ~~[(8)]~~ (9) "Label" means any written, printed, or graphic matter upon or accompanying a  
 142 commercial feed.

143 ~~[(9)]~~ (10) "Manufacture" means to grind, mix, blend, or otherwise process a  
 144 commercial feed for distribution.

145 ~~[(10)]~~ (11) "Mineral feed" means a commercial feed intended to supply primarily  
 146 mineral elements or inorganic nutrients.

147 ~~[(11)]~~ (12) (a) "Misbranded" means any commercial feed, whether in a container or in  
 148 bulk, that bears a label that:

149 (i) is false or misleading in any particular ~~[, or that bears a label that]; or~~

150 (ii) does not strictly conform to the labeling requirements of Section ~~[4-12-5]~~ [4-12-105](#).

151 (b) "Misbranded" includes commercial feed that is distributed under the name of

152 another commercial feed.

153 ~~[(12)]~~ (13) "Official sample" means a sample of commercial feed taken by the  
154 department in accordance with this chapter and designated as "official."

155 ~~[(13)]~~ (14) "Percent" or "percentage" means percentage by weight.

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

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

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

160 (a) identifies the kind, class, or specific use of the commercial feed; and

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

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

164 (19) "Specialty pet" means any animal normally maintained in a household for  
165 nonproduction purposes, including rodents, ornamental birds, ornamental fish, reptiles,  
166 amphibians, ferrets, hedgehogs, marsupials, and rabbits.

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

169 ~~[(14)]~~ (21) "Ton" means a net weight of 2,000 pounds avoirdupois.

170 Section 3. Section **4-12-103**, which is renumbered from Section 4-12-3 is renumbered  
171 and amended to read:

172 **~~[4-12-3].~~ 4-12-103. Department authorized to make and enforce rules --**  
173 **Cooperation with state and federal agencies authorized.**

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

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

182 (a) the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the

183 Association of American Feed Control Officials and published in the official publication of  
 184 that organization; and

185 (b) any federal regulation made pursuant to the authority of the Federal Food, Drug,  
 186 and Cosmetic Act, U.S.C. Sec. 301 et seq., unless the department does not have the authority  
 187 under this chapter to make a corresponding rule.

188 Section 4. Section **4-12-104**, which is renumbered from Section 4-12-4 is renumbered  
 189 and amended to read:

190 ~~[4-12-4].~~ **4-12-104. Distribution of commercial and customer-formula feed --**  
 191 **Registration or license required -- Application -- Fees -- Expiration -- Renewal.**

192 (1) (a) ~~[No]~~ A person may not distribute a commercial feed in this state [which is not  
 193 registered with] without a registration from the department. [Application for registration shall  
 194 be made to the department upon]

195 (b) Except as provided by Subsection (3)(a), a person shall apply for a registration from  
 196 the department for each brand name of commercial feed by:

197 (i) submitting forms prescribed and furnished by [it accompanied with] the department;  
 198 and

199 (ii) paying an annual registration fee, determined by the department pursuant to  
 200 Subsection 4-2-103(2)[, for each brand name of commercial feed registered].

201 (c) Upon receipt of [a proper application and payment of the appropriate fee] the  
 202 appropriate application forms and fee payment, the commissioner shall issue a registration to  
 203 the applicant allowing the applicant to distribute the registered commercial feed in this state  
 204 through December 31 of the year in which the registration is issued, subject to suspension or  
 205 revocation for cause.

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

207 (i) refuse registration to any commercial feed found to not be in compliance with this  
 208 chapter; and

209 (ii) cancel the registration of any commercial feed found to not be in compliance with  
 210 this chapter.

211 (b) A registration may not be refused or canceled unless the department gives the  
 212 registrant an opportunity to:

213 (i) be heard before the department; and

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

216 ~~[(2)] (3) (a)~~ A person who distributes customer-formula feed is not required to register  
217 ~~[such] the~~ feed, but is required to obtain a ~~[permit] license~~ from the department before  
218 distribution. ~~[Application for a customer-formula feed distribution permit shall be made to the~~  
219 ~~department upon]~~

220 (b) A person shall apply for a license to distribute customer-formula feed from the  
221 department by:

222 (i) submitting forms prescribed and furnished by ~~[it accompanied with an annual~~  
223 ~~permit fee]~~ the department; and

224 (ii) paying an annual license fee, determined by the department pursuant to Subsection  
225 4-2-103(2).

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

231 ~~[(3)] (4) (a)~~ Each commercial feed registration is renewable for a period of one year  
232 upon the payment of an annual registration renewal fee in an amount equal to the current  
233 applicable original registration fee.

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

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

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

240 Section 5. Section **4-12-105**, which is renumbered from Section 4-12-5 is renumbered  
241 and amended to read:

242 ~~[4-12-5].~~ **4-12-105. Labeling requirements for commercial and**  
243 **customer-formula feed specified.**

244 (1) ~~[Each] Except for customer-formula feed, each~~ container of commercial feed];



245 ~~except customer-formula feed,]~~ distributed in this state shall bear a label [~~setting forth~~  
 246 specifying:

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

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

251 (c) the [~~feed ingredients~~] common name of each feed ingredient used in the  
 252 commercial feed, stated in the manner prescribed by rule of the department, unless the  
 253 department finds that a full statement of ingredients is not required to serve the interests of a  
 254 consumer;

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

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

257 (i) advising the user of the feed composition; or

258 (ii) supporting claims made in the labeling;

259 (e) a quantity statement for the feed;

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

261 (g) adequate direction for the feed's safe and effective use; and

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

264 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 265 department may by rule authorize a label to use a collective term for a group of ingredients that  
 266 perform a similar function.

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

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

273 [~~(3)~~] (4) Each container or bulk shipment of customer-formula feed distributed in this  
 274 state shall [bear a label or] be accompanied [with an invoice setting forth] by a label, invoice,  
 275 delivery slip, or other shipping document specifying:

- 276 (a) the name and principal mailing address of the manufacturer;
- 277 (b) the name and principal mailing address of the purchaser;
- 278 (c) the date of delivery;
- 279 [~~(d) the net weight of each registered commercial feed used in the mixture and the net~~
- 280 ~~weight of each other ingredient used; and]~~
- 281 (d) the product name of each commercial feed;
- 282 (e) the quantity statement of each commercial feed;
- 283 (f) the net weight for each ingredient used that is not a commercial feed;
- 284 (g) except as provided in Subsection (5), the quantity statement of each ingredient used
- 285 in the mixture, stated in terms the department determines necessary to advise the user of the
- 286 feed composition or to support claims made on the label;
- 287 (h) directions for the feed's use;
- 288 (i) precautionary statements, if applicable; and
- 289 ~~(e)]~~ (j) any information [prescribed by rule of the department] considered necessary
- 290 for the safe and effective use of the customer-formula feed as prescribed by rule of the
- 291 department.
- 292 (5) If the manufacturer of a customer-formula feed intends to protect a proprietary
- 293 formula, the information required by Subsection (4)(g) may be substituted with a guaranteed
- 294 analysis of each nutritional component the feed intends to deliver, stated in terms the
- 295 department determines necessary to advise the user of the feed composition.
- 296 (6) If a customer-formula feed contains a drug, the label shall include the:
- 297 (a) purpose of the medication;
- 298 (b) established name of each active drug ingredient; and
- 299 (c) amount of each drug included in the final mixture, expressed by weight, grams per
- 300 ton, or milligrams per pound.

301 Section 6. Section **4-12-106**, which is renumbered from Section 4-12-6 is renumbered

302 and amended to read:

303 ~~[4-12-6].~~ **4-12-106. Enforcement -- Inspection and samples authorized --**

304 **Methods for sampling and analysis prescribed -- Results to be forwarded to registrant or**

305 **licensee -- Warrants.**

306 (1) ~~[The]~~ In order to determine compliance with this chapter, the department:

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

311 (b) may enter during normal business hours, within reasonable limits, and in a  
312 reasonable manner, any:

313 (i) factory;

314 (ii) warehouse; or

315 (iii) establishment in which commercial feed is manufactured, processed, packed, or  
316 held for distribution; and

317 (c) may enter any vehicle used to transport or hold commercial feed in order to inspect:

318 (i) equipment;

319 (ii) finished and unfinished materials;

320 (iii) containers;

321 (iv) records; and

322 (v) labels.

323 (2) [~~Methods~~] The department's methods for sampling and for analyses of feed  
324 ingredients, mineral ingredients, or other ingredients, or for analyses of [commercial feed  
325 mixtures (customer-formula feeds)] customer-formula feeds, shall be [made] in accordance  
326 with methods published by the Association of Official Analytical Chemists or other generally  
327 recognized methods.

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

330 (4) The department shall:

331 (a) forward the results of all tests of official samples [shall be forwarded by the  
332 department to the registrant or permittee, as the case may be, to] to the manufacturer,  
333 distributor, licensee, or registrant using the address specified on the container, label, or on the  
334 written statement or invoice[. In addition, the department shall]; and

335 (b) furnish to the manufacturer, distributor, licensee, or registrant [or permittee] part of  
336 any official sample [which it] that the department determines is misbranded or adulterated  
337 upon written request to the department [made] by the manufacturer, distributor, licensee, or

338 registrant within 30 days after receipt of the unsatisfactory test results.

339 (5) ~~[The department may proceed immediately, if admittance is refused,]~~ If the  
340 department is refused admittance authorized by Subsections (1)(b) and (1)(c), the department  
341 may proceed immediately to obtain an ex parte warrant from the nearest court of competent  
342 jurisdiction to allow entry upon the premises for the purpose of making inspections and  
343 obtaining samples.

344 Section 7. Section ~~4-12-107~~, which is renumbered from Section 4-12-7 is renumbered  
345 and amended to read:

346 ~~[4-12-7].~~ **4-12-107. Suspension or revocation authorized -- Refusal to register**  
347 **or issue license authorized -- Grounds -- Stop sale, use, or removal order authorized --**  
348 **Court action -- Procedure -- Costs.**

349 (1) ~~[The]~~ Upon satisfactory evidence that a manufacturer, distributor, licensee, or  
350 registrant has used fraudulent or deceptive practices in the registration, licensing, or  
351 distribution of a commercial feed or customer-formula feed, the department may:

352 (a) suspend or revoke the registration ~~[or permit, respectively,]~~ or license of any brand  
353 name of commercial feed or customer-formula feed~~];~~ or

354 (b) refuse to register ~~[or issue a permit for]~~ or license any brand name or product of  
355 commercial feed~~[, upon satisfactory evidence that the registrant or permittee has used~~  
356 ~~fraudulent or deceptive practices in the registration of a commercial feed or in the issuance of a~~  
357 ~~permit, or in its distribution in this state]~~ or customer-formula feed.

358 (2) (a) The department may issue a "stop sale, use, or removal order" to the distributor  
359 or owner of any ~~[designated]~~ commercial feed or lot of commercial feed ~~[which]~~ that it finds or  
360 has reason to believe is misbranded, adulterated, or ~~[is]~~ otherwise in violation of this chapter.

361 (b) The order described in Subsection (2)(a) shall be in writing and no commercial feed  
362 subject to ~~[it]~~ the order shall be moved, offered, or exposed for sale, except upon subsequent  
363 written release by the department.

364 (c) Before ~~[a]~~ an order release is issued, the department may require the distributor or  
365 owner of the "stopped" commercial feed or lot of commercial feed to pay the expense incurred  
366 by the department in connection with the withdrawal of the product from the market.

367 (3) (a) The department is authorized in a court of competent jurisdiction to seek:

368 (i) an order of seizure or condemnation of a commercial feed ~~[which violates this~~

369 chapter or, upon proper grounds, to obtain];

370 (ii) a temporary restraining order; or

371 (iii) a permanent injunction to prevent the violation of this chapter.

372 (b) No bond shall be required of the department in an injunctive proceeding brought  
373 under this section.

374 (4) If the court orders condemnation [~~is ordered,~~] of a commercial feed, the  
375 commercial feed shall be disposed of as the court directs[~~, provided, that in no event shall it~~  
376 ~~order condemnation without giving the~~], provided the order gives the manufacturer, distributor,  
377 licensee, or registrant [~~or other person~~] an opportunity to apply to the court for permission to:

378 (a) relabel, reprocess, or otherwise bring the commercial feed into conformance[~~, or for~~  
379 ~~permission to remove it~~] with this chapter and administrative rules; or

380 (b) remove the commercial feed from the state.

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

383 Section 8. Section **4-12-108**, which is renumbered from Section 4-12-8 is renumbered  
384 and amended to read:

385 ~~[4-12-8].~~ **4-12-108. Unlawful acts specified.**

386 ~~[No]~~ A person in this state [~~shall~~] may not:

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

388 (2) adulterate or misbrand any commercial feed;

389 (3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs,  
390 husks, or bulbs [~~which~~] that are adulterated;

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

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

395 (6) reuse a bag or tote previously used for commercial feed, including  
396 customer-formula feed, unless the user:

397 (a) appropriately cleans the bag or tote; and

398 (b) documents the clean-out procedure used on the bag or tote.

399 Section 9. Section **4-16-102** is amended to read:

400 **4-16-102. Definitions.**

401 As used in this chapter:

402 (1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or  
403 ground stock other than those on the label of a seed container, disseminated in any manner.404 [~~(2) "Agricultural seeds" mean seeds of grass, forage plants, cereal crops, fiber crops,  
405 sugar beets, seed potatoes, or any other kinds of seed or mixtures of seed commonly known  
406 within this state as agricultural or field seeds.~~]

407 (2) "Agricultural seed" includes:

408 (a) grass, forage, cereal, oil, fiber, and other kinds of crop seed commonly recognized  
409 within this state as agricultural seed;410 (b) lawn seed;411 (c) combinations of the seed described in Subsections (2)(a) and (2)(b); and412 (d) noxious weed seed, if the department determines by rule made in accordance with  
413 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that a noxious weed seed is being  
414 used as agricultural seed.415 (3) "Blend" means seed consisting of more than one variety of a kind, each in excess of  
416 5% by weight of the whole.

417 (4) "Brand" means a word, name, symbol, number, or design used to:

418 (a) identify the seed of one person; and419 (b) distinguish the seed of one person from the seed of another person.

420 (5) "Certifying agency" means:

421 (a) an agency authorized under the laws of a state, territory, or possession to officially  
422 certify seed and that has standards and procedures approved by the United States Secretary of  
423 Agriculture to assure the genetic purity and identity of the seed certified; or424 (b) an agency of a foreign country determined by the United States Secretary of  
425 Agriculture to adhere to procedures and standards for seed certification.

426 (6) (a) "Complete record" means all information that relates to the:

427 (i) origin, treatment, germination, purity, kind, and variety of each lot of agricultural  
428 seed sold in this state; or429 (ii) treatment, germination, kind, and variety of each lot of vegetable or flower seed  
430 sold in this state.

431 (b) "Complete record" includes seed samples and records of declarations, labels,  
 432 purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and  
 433 examinations.

434 (7) "Conditioning" means drying, cleaning, scarifying, and other operations that:

435 (a) could change the purity or germination of a seed; and

436 (b) require a seed lot to be retested to determine the label information.

437 (8) "Dormant" means viable seed, excluding hard seed, that fail to germinate when  
 438 provided the specified germination conditions for the kind of seed in question.

439 ~~[(3)]~~ (9) ["Flower seeds" mean seeds] "Flower seed" includes the seed of herbaceous  
 440 plants that are:

441 (a) grown for their blooms, ornamental foliage, or other ornamental [plants] parts; and

442 (b) commonly known and sold under the name of flower [seeds] or wildflower seed in  
 443 this state.

444 ~~[(4)]~~ (10) "Foundation seed," "registered seed," or "certified seed" means seed that is  
 445 produced and labeled in accordance with procedures officially recognized by a seed certifying  
 446 agency approved and accredited in this state.

447 (11) "Germination" means the emergence and development from the seed embryo of  
 448 those essential structures that are, for the kind of seed in question, indicative of the ability to  
 449 produce a normal plant under favorable conditions.

450 (12) "Hard seed" means seed that remains hard at the end of the prescribed germination  
 451 test period because the seed has not absorbed water due to an impermeable seed coat.

452 ~~[(5)]~~ (13) (a) "Hybrid" means the first generation seed of a cross produced by  
 453 controlling pollination and by combining:

454 (i) two or more inbred lines;

455 (ii) one inbred or a single cross with an open-pollinated variety; or

456 (iii) two varieties or species, except open-pollinated varieties of corn, Zea mays.

457 (b) [The] "Hybrid" does not mean the second generation [and] or subsequent  
 458 generations from the crosses referred to in Subsection [(5)(a) are not to be regarded as hybrids]  
 459 (13)(a).

460 ~~[(c) Hybrid designations shall be treated as variety names.]~~

461 (14) "Inert matter" means all matter that is not seed, including broken seeds, sterile

462 florets, chaff, fungus bodies, and stones, as determined by methods defined by rule.

463 ~~[(6)]~~ (15) "Kind" means one or more related species or subspecies of seed ~~[which]~~ that  
464 singly or collectively [is] are known by one common name, for example, corn, oats, alfalfa, and  
465 timothy.

466 ~~[(7)]~~ (16) (a) "Label" means any written, printed, or graphic representation  
467 accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in  
468 containers.

469 (b) "Label" includes ~~[representations on invoices, bills, and letterheads.]~~ a  
470 representation on an invoice, bill, or letterhead.

471 (17) "Labeling" includes a tag or other device attached to, written, stamped, or printed  
472 on a container or accompanying a lot of bulk seeds that:

473 (a) claims to specify the information required on the seed label by this chapter; and

474 (b) may include other information related to the labeled seed.

475 ~~[(8)]~~ (18) "Lot" means a definite quantity of seed identified by a number or other mark,  
476 every [part] portion or bag of which is uniform within recognized tolerances[-:] for the factors  
477 that appear in the labeling.

478 (19) "Mixture" or "mix" or "mixed" means seed consisting of more than one kind, each  
479 in excess of 5% by weight of the whole.

480 (20) "Mulch" means a protective covering of a suitable substance placed with seed that:

481 (a) acts to retain sufficient moisture to support seed germination and sustain early  
482 seedling growth;

483 (b) aids in the prevention of the evaporation of soil moisture;

484 (c) aids in the control of weeds; and

485 (d) aids in the prevention of erosion.

486 ~~[(9)]~~ (21) ~~"[Noxious-weed seeds] mean weed seeds"~~ Noxious weed seed" means weed  
487 seed declared noxious by the commissioner in accordance with Section [4-17-103](#).

488 (22) (a) "Off-type" means a seed or plant not part of the variety because the seed or  
489 plant deviates in one or more characteristics from the variety.

490 (b) "Off-type" may include a seed or plant that:

491 (i) is of another variety;

492 (ii) is not necessarily any variety;



493 (iii) results from cross-pollination by another kind or variety; or  
494 (iv) results from uncontrolled self-pollination during production of hybrid seeds.

495 (23) "Origin" means:

496 (a) for an indigenous stand of trees, the area on which the trees are growing; and

497 (b) for a nonindigenous stand of trees, the place from which the seeds or plants  
498 originated.

499 (24) "Other crop seed" means the seed of plants grown as crops other than the kind or  
500 variety included in the pure seed, as determined by methods defined by rule.

501 (25) "Person" means an individual, partnership, corporation, company, association,  
502 receiver, trustee, or agent.

503 ~~[(10) "Pure seed," "germination," or other terms in common use for testing seeds for~~  
504 ~~purposes of labeling shall have ascribed to them the meaning set forth for such terms in the~~  
505 ~~most recent edition of "Rules for Seed Testing" published by the Association of Official Seed~~  
506 ~~Analysts.]~~

507 (26) "Pure seed" means seed exclusive of inert matter and all other seed not of the seed  
508 being considered as determined by methods defined by rule.

509 ~~[(H)]~~ (27) ["Seeds] "Seed for sprouting" means [seeds] seed sold for sprouting for  
510 salad or culinary purposes.

511 ~~[(I2)]~~ (28) "Sowing" means the placement of agricultural [seeds, vegetable seeds,  
512 flower seeds, tree and shrub seeds, or seeds] seed, vegetable seed, flower seed, tree and shrub  
513 seed, or seed for sprouting in a selected environment for the purpose of obtaining plant growth.

514 (29) "Tetrazolium test (TZ)" means a biochemical seed viability test using the  
515 compound 2, 3, 5 triphenyl tetrazolium chloride (TTC), as specified in Part II, Tetrazolium  
516 Testing Handbook, Contribution Number 29, to the handbook on Seed Testing, prepared by the  
517 Tetrazolium subcommittee of the Association of Official Seed Analysts, 2008 Edition.

518 (30) "Total viable" is:

519 (a) equal to the sum of percentage germination, percentage dormant seed, and  
520 percentage hard seed; or

521 (b) determined by a tetrazolium test for species identified in the rules for testing or for  
522 species for which there are no rules for testing.

523 ~~[(13) "Treated" means seed that has received an application of a substance to reduce,~~

524 ~~control, or repel certain disease organisms, fungi, insects or other pests which may attack the~~  
525 ~~seed or its seedlings, or has received some other treatment to improve its planting value.]~~

526 (31) "Treated" means that a seed has received an application of a substance or been  
527 subjected to a process about which a claim is made.

528 ~~[(14)]~~ (32) "Tree and shrub ~~[seeds" mean seeds]~~ seed" includes seed of woody plants  
529 commonly known and sold ~~[under the name of]~~ as tree and shrub seeds in this state.

530 (33) "Type" means a group of varieties so nearly similar that the individual varieties  
531 cannot be clearly differentiated except under special conditions.

532 (34) (a) "Variant" means a seed or plant that:

533 (i) is distinct within the variety but occurs naturally in the variety;

534 (ii) is stable and predictable with a degree of reliability comparable to other varieties of  
535 the same kind, within recognized tolerances, when the variety is reproduced or reconstituted;  
536 and

537 (iii) was originally a part of the variety as released.

538 (b) "Variant" does not include an off-type.

539 ~~[(15)]~~ (35) "Variety" means a subdivision of a kind ~~[characterized by growth, yield,~~  
540 plant, fruit, seed, or other characteristic, which differentiate it from other plants of the same  
541 kind.] that is:

542 (a) distinct, meaning a variety can be differentiated by one or more identifiable  
543 morphological, physiological, or other characteristics from all other varieties of public  
544 knowledge;

545 (b) uniform, meaning that variations in essential and distinctive characteristics are  
546 describable; and

547 (c) stable, meaning a variety's essential and distinctive characteristics and uniformity  
548 will remain unchanged when reproduced or reconstituted as required by the category of variety.

549 ~~[(16)]~~ (36) "Vegetable ~~[seeds" mean seeds]~~ seed" includes the seed of those crops that  
550 are:

551 (a) grown in gardens or on truck farms ~~[that are]~~; and

552 (b) generally known and sold under the name of vegetable ~~[seeds, plants, bulbs, and~~  
553 ground stocks] or herb seed in this state.

554 ~~[(17) "Weed seeds" mean seeds of any plant generally recognized as a weed within this~~

555 state.]

556 (37) "Weed seed" means the seed of all plants generally recognized as weeds within  
 557 this state, as determined by methods defined by rule.

558 Section 10. Section **4-16-201** is amended to read:

559 **4-16-201. Labeling requirements specified for agricultural seed, components and**  
 560 **mixtures of lawn and turf seed, vegetable seed, flower seed, tree and shrub seed, and seed**  
 561 **for sprouting.**

562 (1) Each container of seed that is transported, sold, offered, or exposed for sale within  
 563 this state shall bear thereon or have attached thereto a printed label that:

564 (a) is in a conspicuous place;

565 (b) is plainly written in the English language;

566 (c) specifies the information required by this chapter; and

567 (d) does not modify or deny the information required by this chapter in the labeling or  
 568 on another label attached to the container.

569 ~~[(+)]~~ (2) Each container of agricultural seed offered or exposed for sale or transported  
 570 for sowing into this state shall be labeled with the following information:

571 (a) ~~[the common]~~ name of the ~~[kind or]~~ kind and variety ~~[of]~~ for each seed component  
 572 in excess of 5% ~~[by weight]~~ of the whole and the ~~[percent]~~ percentage by weight of each  
 573 component in the order of its predominance in columnar form, provided that:

574 ~~[(i) if any component is required by rule of the department to be labeled as a variety;~~  
 575 ~~the label, in addition to stating the common name of the seed, shall specify the name of the~~  
 576 ~~variety or, if allowed by rule of the department, state "Variety Not Stated";]~~

577 ~~[(ii) if any component is a hybrid seed, that fact shall be stated on the label; and]~~

578 ~~[(iii) if more than one component is required to be named, the word "mixture" shall~~  
 579 ~~appear;]~~

580 (i) the label shall specify the name of the variety or state "Variety Not Stated" or  
 581 "VNS," for any component that is required by rule of the department to be labeled as a variety;

582 (ii) a hybrid shall be labeled as a hybrid;

583 (iii) the word "mix," "mixture," or "blend" shall appear, if more than one component is  
 584 required to be named; and

585 (iv) the total of the percentages described in Subsections (2)(a), (2)(d), 2(e), and (2)(f)

586 shall equal 100%;

587 (b) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells,  
588 offers, or exposes [it] the seed for sale in this state;

589 (c) ~~[the]~~ lot number or other lot identification;

590 (d) ~~[the]~~ percentage by weight of all weed seeds;

591 (e) ~~[the]~~ percentage by weight of agricultural or crop seeds other than those named on  
592 the label pursuant to Subsection (2)(a);

593 (f) ~~[the]~~ percentage by weight of inert matter;

594 (g) ~~[the]~~ name and rate of occurrence per pound of each kind of restricted  
595 ~~[noxious-weed]~~ noxious weed seed present for which tolerance is permitted;

596 (h) ~~[the]~~ origin, if known, of alfalfa, red clover, or field corn seed and, if the origin is  
597 unknown, that fact shall be stated; ~~[and]~~

598 (i) ~~[the]~~ month and year seed tests were conducted for each named agricultural seed,  
599 specifying:

600 (i) ~~[percent]~~ percentage of germination, exclusive of hard or dormant seed; and

601 (ii) ~~[percent]~~ percentage of hard or dormant seed, if present; and

602 ~~[(iii) total percent of germination and hard seed.]~~

603 (j) net weight.

604 (3) Coated seed shall be labeled with the:

605 (a) information required by Subsections 4-16-201(2)(a) through (2)(e) and (2)(g);

606 (b) percentage by weight of pure seed exclusive of coating material;

607 (c) percentage by weight of coating material;

608 (d) percentage by weight of inert material exclusive of coating material; and

609 (e) percentage of germination, determined on 400 pellets with or without seed.

610 ~~[(2)]~~ (4) Each container of ~~[seed mixtures for lawn or]~~ lawn and turf seed or lawn and  
611 turf seed mixture offered or exposed for sale or transported for sowing into this state shall be  
612 labeled with the following information:

613 (a) ~~[the common]~~ name of the ~~[kind or]~~ kind and variety ~~[of each agricultural]~~ for each  
614 lawn and turf seed component in excess of 5% ~~[by weight]~~ of the whole, and the percentage by  
615 weight of ~~[pure seed in]~~ each component in the order of its predominance in columnar form~~[-];~~,  
616 provided that:

- 617 (i) the label shall specify the name of the variety or state "Variety Not Stated" or  
 618 "VNS," for any component that is required by rule of the department to be labeled as a variety;
- 619 (ii) a hybrid shall be labeled as a hybrid; and
- 620 (iii) the total of the percentages described in Subsections (4)(a), (4)(d), (4)(e), and  
 621 (4)(f) shall equal 100%;
- 622 (b) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells,  
 623 offers, or exposes [it] the seed for sale in this state;
- 624 (c) ~~[the]~~ lot number or other lot identification;
- 625 (d) ~~[the]~~ percentage by weight of all weed seeds;
- 626 (e) ~~[the]~~ percentage by weight of agricultural ~~[seeds]~~ or crop seeds other than those  
 627 ~~[required to be]~~ named on the label pursuant to Subsection (4)(a);
- 628 (f) ~~[the]~~ percentage by weight of inert matter;
- 629 (g) ~~[the]~~ name and rate of occurrence per pound of each kind of restricted  
 630 ~~[noxious-weed]~~ noxious weed seed present for which tolerance is permitted;
- 631 (h) ~~[the]~~ month and year seed tests were conducted for each named lawn and turf seed,  
 632 specifying:
- 633 (i) ~~[percent]~~ percentage of germination, exclusive of hard or dormant seed; and
- 634 (ii) ~~[percent]~~ percentage of hard or dormant seed, if present;
- 635 ~~[(i) the word "mixed" or "mixture"; and]~~
- 636 (i) the word "mix," "mixture," or "blend," if more than one component is required to be  
 637 named; and
- 638 (j) ~~[its]~~ net weight.
- 639 ~~[(3)] (5) [Each container of vegetable seeds weighing one pound or less offered or~~  
 640 ~~exposed for sale or] Vegetable seed in packets prepared for home gardens or household  
 641 plantings or vegetable seed preplanted in containers, mats, tapes, or other planting devices shall  
 642 be labeled with the following information:~~
- 643 (a) ~~[the common]~~ name of the kind and variety of seed[?], provided that a hybrid shall  
 644 be labeled as a hybrid;
- 645 (b) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells,  
 646 offers, or exposes [it] the seed for sale in this state;
- 647 (c) (i) ~~[the]~~ calendar month and year the ~~[seed was tested or the year for which the seed~~

648 ~~was packaged;]~~ germination test was completed and sell by date, which may not be more than  
649 12 months past the date of the germination test exclusive of the month of test;

650 (ii) year for which the seed was packaged for sale, stated as "Packed for yy," and year  
651 of the seed sell by date, stated as "Sell by yy"; or

652 (iii) calendar month and year the germination test was completed and the percentage  
653 germination, provided that the germination test was completed within the previous 12 months  
654 exclusive of the month of test;

655 (d) ~~[if germination of the seed is]~~ seed with germination less than the germination  
656 standard last established for the seed by the department, ~~[the label]~~ shall specify the:

657 (i) percentage of germination, exclusive of hard or dormant seed;

658 (ii) percentage of hard or dormant seed, if present; and

659 ~~[(iii) the calendar month and year the germination test was completed to determine the~~  
660 ~~percentages; and]~~

661 ~~[(iv)]~~ (iii) ~~[the]~~ words "Below Standard" in not less than eight-point type; ~~[and]~~

662 ~~[(e) if the seeds are placed in a germination medium, mat, tape, or other device which~~  
663 ~~makes it difficult to determine the quantity of the seed without removing the seeds, a]~~

664 (e) statement to indicate the minimum number of seeds in the container[-], if the seed  
665 are placed in a germination medium, mat, tape, or other device that makes it difficult to  
666 determine the quantity of the seed without removing the seed;

667 (f) lot number or other lot identification; and

668 (g) the word "mix," "mixture," or "blend," if more than one component is required to  
669 be named.

670 ~~[(4) Each container of vegetable seeds weighing more than one pound offered or~~  
671 ~~exposed for sale or transported for sowing into this state]~~

672 (6) Vegetable seed not described in Subsection (5) shall be labeled with the following  
673 information:

674 (a) ~~[the common]~~ name of each kind and variety ~~[of seed component]~~ present in excess  
675 of 5% ~~[by weight]~~ of the whole and the percentage by weight of each in order of its  
676 predominance[;] in columnar form, provided that a hybrid shall be labeled as a hybrid;

677 (b) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells,  
678 offers, or exposes [it] the seed for sale in this state;

679 (c) ~~[the]~~ lot number or other lot identification;

680 (d) ~~[the]~~ month and year seed tests were conducted, for each named vegetable seed,  
681 specifying the:

682 (i) ~~[the]~~ percentage of germination, exclusive of hard or dormant seed; and

683 (ii) ~~[the]~~ percentage of hard or dormant seed, if present; ~~[and]~~

684 (e) ~~[the]~~ name and rate of occurrence per pound of each kind of restricted  
685 noxious-weed seed for which tolerance is permitted~~[-];~~ and

686 (f) the word "mix," "mixture," or "blend," if more than one component is required to be  
687 named.

688 ~~[(5)] (7) [Each container of flower seeds prepared in packets] Each packet of flower~~  
689 seed prepared for use in home flower gardens or household plantings or flower ~~[seeds]~~ seed in  
690 preplanted containers, mats, tapes, or other planting devices ~~[and offered or exposed for sale in~~  
691 ~~this state]~~ shall be labeled with the following information:

692 (a) ~~[the common]~~ name of the kind and variety ~~[of the seeds]~~ or a statement of ~~[the]~~  
693 type and performance characteristics of the seed~~[-];~~ as prescribed by rule made in accordance  
694 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

695 (i) a hybrid shall be labeled as a hybrid; and

696 (ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is  
697 required to be named;

698 (b) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells,  
699 offers, or exposes ~~[it]~~ the seed for sale in this state;

700 (c) (i) ~~[the]~~ calendar month and year ~~[the seed was tested or the year for which the seed~~  
701 ~~was packaged;]~~ the germination test was completed and the sell by date, which may not be  
702 more than 12 months past the date of the germination test exclusive of the month of the test;

703 (ii) year for which the seed was packed for sale, stated as "Packed for yy," and year of  
704 the seed sell by date, stated as "Sell by yy"; or

705 (iii) calendar month and year the germination test was completed and percentage  
706 germination, provided that the germination test was completed within the previous 12 months  
707 exclusive of the month of the test;

708 (d) ~~[if germination of the seed is]~~ seed with germination less than the germination  
709 standard last established by the department, ~~[the label]~~ shall specify the:

- 710 (i) percentage of germination, exclusive of hard or dormant seed;
- 711 (ii) percentage of hard or dormant seed, if present; and
- 712 (iii) ~~[the]~~ words "Below Standard" in not less than eight-point type; and
- 713 ~~[(e) if the seeds are placed in a germination medium, mat, tape, or other device which~~
- 714 ~~makes it difficult to determine the quantity of seed without removing the seeds, a]~~
- 715 (e) statement to indicate the minimum number of seeds in the container[-], if the seeds
- 716 are placed in a germination medium, mat, tape, or other device that makes it difficult to
- 717 determine the quantity of seed without removing the seed.
- 718 ~~[(6) Each container of flower seeds in other than packets prepared for use in home~~
- 719 ~~flower gardens or household plantings and other than in preplanted containers, mats, tapes, and~~
- 720 ~~other devices]~~
- 721 (8) Flower seed not described in Subsection (7) offered or exposed for sale in this state
- 722 shall be labeled with the following information:
- 723 (a) ~~[the common]~~ name of the kind and variety ~~[of the seed or a]~~ or statement of the
- 724 type and performance characteristics of the seed[;] as prescribed by rule made in accordance
- 725 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:
- 726 (i) a hybrid shall be labeled as a hybrid; and
- 727 (ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is
- 728 required to be named;
- 729 (b) genus and species of wildflower and the subspecies, if appropriate, of wildflower;
- 730 ~~[(b)]~~ (c) [the] name and address of the person who labeled the seed, or the person who
- 731 sells, offers, or exposes [it] the seed for sale in this state;
- 732 ~~[(c)]~~ (d) [the] lot number or other lot identification;
- 733 ~~[(d) the month and year the seed was tested, or the year for which it was packaged;~~
- 734 ~~and]~~
- 735 ~~[(e) for those kinds of seeds for which standard testing procedures are prescribed:]~~
- 736 ~~[(i) the]~~ (e) percentage of germination, exclusive of hard or dormant seed; [and]
- 737 ~~[(ii) the]~~ (f) percentage of hard or dormant seed, if present[-];
- 738 (g) calendar month and year that testing was completed to determine percentages
- 739 described in Subsections (8)(e) and (8)(f); and
- 740 (h) wildflower seed with a pure seed percentage of less than 90% shall specify the



741 percentage by weight of:

742 (i) each component listed in order of predominance;

743 (ii) weed seed if present; and

744 (iii) inert matter.

745 ~~[(7)]~~ (9) Each container of tree and shrub [seeds] seed that is sold, offered, or exposed  
 746 for sale or transported for sowing into this state shall [be labeled with the following  
 747 information]:

748 (a) bear a label as required by Subsection 4-16-201(1), unless:

749 (i) each bag or other container is clearly identified by a lot number stenciled on the  
 750 container or the seed is in bulk; and

751 (ii) under a contractual agreement the seed may bear a label by invoice accompanying  
 752 the shipment or an analysis tag attached to the invoice; and

753 (b) bear on the label the following information:

754 ~~[(a)]~~ (i) [the common] name of the [species of] seed and name of the subspecies, if  
 755 appropriate;

756 ~~[(b)]~~ (ii) [the] scientific name of the genus and species and scientific name of the  
 757 subspecies, if appropriate;

758 ~~[(c)]~~ (iii) [the] name and address of the person who labeled the seed, or the person who  
 759 sells, offers, or exposes [it] the seed for sale in this state;

760 ~~[(d)]~~ (iv) [the] lot number or other lot identification;

761 ~~[(e)]~~ (v) information as to origin as follows:

762 ~~[(i)]~~ (A) [for] seed collected from a predominantly indigenous stand[;] shall specify the  
 763 area of collection given by latitude and longitude, [or] geographic description, or political  
 764 subdivision such as state or county; and

765 ~~[(ii)]~~ (B) [for] seed collected from other than a predominantly indigenous stand[;] shall  
 766 specify identity of the area of collection and the origin of the stand or state "origin not  
 767 indigenous";

768 ~~[(f)]~~ (vi) [the] elevation or the upper and lower limits of elevation within which [said]  
 769 the seed was collected;

770 ~~[(g)]~~ (vii) purity as a percentage of pure seed by weight;

771 ~~[(h)]~~ for those species for which standard germination testing procedures are prescribed

772 by the commissioner, the following:]

773 [(i)] (viii) percentage of germination, exclusive of hard or dormant seed;

774 [(ii)] (ix) percentage of hard or dormant seed, if present; and

775 [(iii)] (x) [the] calendar month and year the germination test was completed to  
776 determine [~~such percentages; and~~] percentages described in Subsections (9)(b)(viii) and  
777 (9)(b)(ix).

778 [(i) for those species for which standard germination testing procedures have not been  
779 prescribed by the commissioner, the calendar year in which the seed was collected.]

780 [(8)] (10) Each container of [~~seeds~~] seed for sprouting that is offered or exposed for  
781 sale or transported for sowing into this state shall be labeled with the following information:

782 (a) [~~the~~] name and address of the person who labeled the seed, or the person who sells,  
783 offers, or exposes [it] the seed for sale in this state;

784 (b) [~~the commonly accepted~~] name of the kind or kinds in order of predominance;

785 (c) lot number[;] or other identification;

786 (d) percentage by weight of each pure seed component in excess of 5% of the whole,  
787 other crop seeds, inert matter, and weed seeds, if any;

788 (e) percentage of germination of each pure seed component[; ~~and~~], exclusive of hard or  
789 dormant seed;

790 (f) percentage of hard or dormant seed, if present;

791 [(f)] (g) [the] calendar month and year the [~~seed was tested~~] test was completed to  
792 determine percentages described in Subsections (10)(d) through (10)(f) or the year for which  
793 the seed was packaged[-]; and

794 [~~(9) Any written or printed matter of any label shall appear in English.~~]

795 (h) the word "mix," "mixture," or blend," if more than one component is required to be  
796 named.

797 (11) A combination mulch, seed, and fertilizer product shall:

798 (a) contain a minimum of 70% mulch;

799 (b) bear a label with the word "combination" followed by the words "mulch - seed -  
800 fertilizer" on the upper 30% of the principal display panel, provided that the:

801 (i) word "combination" shall be the largest and most conspicuous type on the container  
802 and equal to or larger than the product name; and

803 (ii) words "mulch - seed - fertilizer" shall be no smaller than one-half the size of the  
804 word "combination" and in close proximity to the word "combination"; and

805 (c) bear an analysis label, for agricultural and lawn and turf seed placed in a  
806 germination medium, mat, tape, or other device or mixed with mulch, specifying the following  
807 information:

808 (i) name of each kind and variety;

809 (ii) product name;

810 (iii) lot number;

811 (iv) percentage by weight of pure seed of each kind and variety named, including those  
812 less than 5% of the whole, provided that the total of the percentages described in Subsections  
813 (11)(c)(iv) through (11)(c)(vii) shall equal 100%;

814 (v) percentage by weight of other crop seed;

815 (vi) percentage by weight of inert matter, which may not be less than 70%;

816 (vii) percentage by weight of weed seed;

817 (viii) name and number of noxious weed seed per pound, if present;

818 (ix) percentage of germination of each kind or kind and variety named;

819 (x) percentage hard or dormant seed, if appropriate;

820 (xi) date of germination test; and

821 (xii) name and address of tagger.

822 (12) A product containing a combination of seed and granular fertilizer shall be labeled  
823 with the following information:

824 (a) the word "combination" followed by the words "seed-fertilizer" on the upper 30%  
825 of the principal display panel provided that:

826 (i) the word "combination" must be the largest and most conspicuous type on the  
827 container and equal to or larger than the product name; and

828 (ii) the words "seed-fertilizer" shall be no smaller than one-half the size of the word  
829 "combination" and in close proximity to the word "combination"; and

830 (b) an analysis label specifying the information listed in Subsection (11)(c) and the  
831 percentage by weight of the fertilizer, listed on a separate line as a component of the inert  
832 matter.

833 Section 11. Section **4-16-202** is amended to read:

834           **4-16-202. Distribution of seeds -- Germination tests required -- Date to appear on**  
835 **label -- Seed to be free of noxious weed seed -- Special requirements for treated seeds --**  
836 **Prohibitions.**

837           (1) ~~[No]~~ A person in this state ~~[shall]~~ may not offer or expose for sale or sowing any  
838 seed for sprouting or any agricultural, vegetable, flower, or tree and shrub seed ~~[or seeds for~~  
839 ~~sprouting for sale or sowing]~~ unless:

840           (a) (i) for agricultural ~~[seeds]~~ seed, including mixtures of agricultural ~~[seeds]~~ seed:

841           (A) a test to determine the percentage of germination has been performed within 18  
842 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and

843           (B) the date of the test appears on the label;

844           (ii) for vegetable, flower, or tree and shrub seed or ~~[seeds]~~ seed for sprouting:

845           (A) a test to determine the percentage of germination has been performed within ~~[nine]~~  
846 12 months, exclusive of the month the seed is tested and the date the seed is offered for sale;

847 and

848           (B) the date of the test appears on the label;

849           (iii) for hermetically sealed agricultural, vegetable, flower, or tree and shrub seed:

850           (A) a test to determine the percentage of germination has been performed within 36  
851 months, exclusive of the month the seed is tested and the date the seed is offered for sale;  
852 ~~provided, that hermetically sealed seeds may be offered or exposed for sale after 36 months if~~  
853 ~~they], or the seed~~ have been retested for germination within nine months, exclusive of the

854 month the seed is retested and the date the ~~[seeds]~~ seed are offered or exposed for sale; and

855           (B) the date of the test appears on the label;

856           (b) ~~[its]~~ the package or other container is truthfully labeled and in accordance with  
857 Section [4-16-201](#); and

858           (c) ~~[it]~~ the seed is free of noxious weed seed, subject to any tolerance as may be  
859 prescribed by the department through rule made in accordance with Title 63G, Chapter 3, Utah  
860 Administrative Rulemaking Act.

861           (2) The label on any package or ~~[other]~~ container of an agricultural, vegetable, flower,  
862 lawn and turf, or tree and shrub seed ~~[which]~~ or seed mixture that has been treated and for  
863 which a claim is made on account of the treatment, in addition to the labeling requirements  
864 specified in Section [4-16-201](#), shall:

- 865 (a) state that the ~~[seeds]~~ seed have been treated;
- 866 (b) state the commonly accepted name, generic chemical name, or abbreviated  
867 chemical name of the substance used for treatment;
- 868 (c) ~~[if the seed is treated with an inoculant,]~~ state the date beyond which the inoculant  
869 is not considered effective, if the seed is treated with an inoculant; and
- 870 (d) (i) include a caution statement consistent with rules of the department if the  
871 treatment substance remains with the seed in an amount which is harmful to vertebrate animals;  
872 ~~[provided, that the]~~ and
- 873 (ii) subject to Subsection (2)(d)(i), state in a caution statement for mercurials and  
874 similarly toxic substances, as defined by rule of the department, ~~[shall state]~~ that the seed has  
875 been treated with poison with "POISON" printed in red letters on a background of distinctly  
876 contrasting color together with a representation of the skull and crossbones.
- 877 (3) A person may not:
- 878 (a) use the word "trace" as a substitute for a statement required under this chapter;
- 879 (b) disseminate any false or misleading advertisement about agricultural, vegetable,  
880 flower, or tree and shrub seed or ~~[seeds]~~ seed for sprouting; or
- 881 (c) detach, alter, or destroy any label or substitute any seed in a manner ~~[which]~~ that  
882 defeats the purpose of this chapter.
- 883 Section 12. Section ~~4-17-114~~ is amended to read:
- 884 **4-17-114. Invasive Species Mitigation Account created.**
- 885 (1) (a) As used in this section, "project" means an undertaking that:
- 886 ~~[(a)]~~ (i) rehabilitates or treats an area infested with, or threatened by, an invasive  
887 species; or
- 888 ~~[(b)]~~ (ii) conducts research related to invasive species.
- 889 (b) As used in this section, "project" includes items and processes required prior to the  
890 implementation of an undertaking described in Subsection (1)(a).
- 891 (2) (a) There is created a restricted account within the General Fund known as the  
892 "Invasive Species Mitigation Account."
- 893 (b) The restricted account shall consist of:
- 894 (i) money appropriated by the Legislature;
- 895 (ii) grants from the federal government; and

896 (iii) grants or donations from a person.

897 (3) (a) [~~After consulting with the Department of Natural Resources and the~~  
898 ~~Conservation Commission, the~~] The department may expend money in the restricted account:

899 (i) on a project implemented by:

900 (A) the department; or

901 (B) the Conservation Commission created in Section 4-18-104; or

902 (ii) by giving a grant for a project to a:

903 (A) [~~a~~] state agency;

904 (B) [~~a~~] federal agency;

905 (C) [~~a~~] federal, state, tribal, or private landowner;

906 (D) [~~a~~] political subdivision;

907 (E) [~~a~~] county weed board;

908 (F) [~~a~~] cooperative weed management area; [~~or~~]

909 (G) nonprofit organization; or

910 [~~(G)-a~~] (H) university.

911 (b) The department may use up to 10% of restricted account funds appropriated under  
912 Subsection (2)(b)(i) on:

913 (i) department administration; or

914 (ii) project planning, monitoring, and implementation expenses.

915 (c) A project that receives funds from the Invasive Species Mitigation Account may not  
916 spend more than 10% of an award of funds on planning and administration costs.

917 (d) A federal landowner that receives restricted account funds for a project shall match  
918 the funds received from the restricted account with an amount that is equal to or greater than  
919 the amount received from the restricted account.

920 (4) In giving a grant, the department shall consider the effectiveness of a project in the  
921 rehabilitation or treatment of an area infested with, or threatened by, an invasive species.

922 Section 13. Section ~~4-17-115~~ is amended to read:

923 **4-17-115. Cooperative agreements and grants to rehabilitate areas infested with**  
924 **or threatened by invasive species.**

925 [~~After consulting with the Department of Natural Resources and the Conservation~~  
926 ~~Commission, the~~] The department may:

927 (1) enter into a cooperative agreement with a political subdivision, a state agency, a  
 928 federal agency, a tribe, a county weed board, a cooperative weed management area, a nonprofit  
 929 organization, a university, or a private landowner to:

930 (a) rehabilitate or treat an area infested with, or threatened by, an invasive species; or  
 931 (b) conduct research related to invasive species;

932 (2) expend money from the Invasive Species Mitigation Account created in Section  
 933 4-17-114; and

934 (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
 935 make rules to:

936 (a) administer this section; and  
 937 (b) give grants from the Invasive Species Mitigation Account.

938 Section 14. Section **4-24-102** is amended to read:

939 **4-24-102. Definitions.**

940 As used in this chapter:

941 (1) "Brand" means any identifiable mark applied to livestock [~~which~~] that is intended  
 942 to show ownership and the mark's location.

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

945 (3) "Domesticated elk" means the same as that term is defined in Section 4-39-102.

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

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

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

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

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

955 (ii) a place where an association of livestock breeders under the association's own  
 956 management [~~;~~] offers registered livestock or breeding sires for sale [~~and~~], assumes all  
 957 responsibility for the sale, guarantees title to the livestock or sires sold, and arranges with the

958 department for brand inspection of all animals sold.

959 (7) "Mark" means any cutting and shaping of the ears or brisket area of livestock  
960 [~~which~~] that is intended to show ownership.

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

963 (9) "Slaughterhouse" means any building, plant, or establishment where animals are  
964 harvested, dressed, or processed and their meat or meat products produced for human  
965 consumption.

966 Section 15. Section ~~4-24-104~~ is amended to read:

967 **4-24-104. Livestock Brand Board created -- Composition -- Terms -- Removal --**  
968 **Quorum for transaction of business -- Compensation -- Duties.**

969 (1) There is created the Livestock Brand Board consisting of seven members appointed  
970 by the governor as follows:

971 (a) [~~four cattle ranchers~~] one feeder operator recommended by the Utah Cattlemen's  
972 Association[~~, one of whom shall be a feeder operator~~];

973 (b) three cattle ranchers, one from each of the state's brand districts, recommended by  
974 the county cattlemen's associations;

975 [~~(b)~~] (c) one dairyman recommended by the Utah Dairymen's Association;

976 [~~(c)~~] (d) one livestock market operator recommended jointly by the Utah Cattlemen's  
977 Association and the Utah Dairymen's Association [~~and the Livestock Market Association~~]; and

978 [~~(d)~~] (e) one horse breeder recommended by the Utah Horse Council.

979 (2) If a nominee is rejected by the governor, the recommending association shall  
980 submit another nominee.

981 (3) (a) Except as required by Subsection (3)(b), as terms of current board members  
982 expire, the governor shall appoint each new member or reappointed member to a four-year  
983 term.

984 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
985 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
986 board members are staggered so that approximately half of the board is appointed every two  
987 years.

988 (4) (a) A member may, at the discretion of the governor, be removed at the request of



989 the association that recommended the appointment.

990 (b) When a vacancy occurs in the membership for any reason, the replacement shall be  
991 appointed for the unexpired term.

992 (5) (a) One member elected by the board shall serve as chair for a term of one year and  
993 be responsible for the call and conduct of meetings of the Livestock Brand Board.

994 (b) Attendance of a simple majority of the members at a duly called meeting shall  
995 constitute a quorum for the transaction of official business.

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

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

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

1000 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
1001 63A-3-107.

1002 (7) The Livestock Brand Board with the cooperation of the department shall direct the  
1003 procedures and policies to be followed in administering and enforcing this chapter.

1004 Section 16. Section 4-24-303 is amended to read:

1005 **4-24-303. Livestock -- Verification of ownership through brand inspection --**  
1006 **Issuance of certificate of brand inspection -- Brand inspector may demand evidence of**  
1007 **ownership -- Brand inspection of livestock seized by the federal government prohibited --**  
1008 **Exception.**

1009 (1) A brand inspector, as an agent of the department, shall verify livestock ownership  
1010 by conducting a brand inspection during daylight hours.

1011 (2) After conducting the brand inspection, the brand inspector, if satisfied that the  
1012 livestock subject to inspection bears registered brands or marks owned by the owner of the  
1013 livestock, shall issue a brand inspection certificate to the owner or owner's agent.

1014 (3) The brand inspector shall record the number, sex, breed, and brand or mark on each  
1015 animal inspected together with the owner's name.

1016 (4) If any livestock subject to inspection bears a brand or mark other than that of the  
1017 owner, or if no brand or mark appears on ~~such~~ the livestock, the brand inspector may demand  
1018 evidence of ownership before issuing a brand inspection certificate.

1019 (5) A brand inspector may not issue a brand inspection certificate for any privately

1020 owned livestock seized by the federal government unless the:

1021 (a) [~~the~~] brand inspector receives consent from the livestock's owner;

1022 (b) [~~the~~] owner is unknown; or

1023 (c) [~~the~~] brand inspector receives a copy of a court order authorizing the seizure.

1024 (6) Breed papers alone do not constitute proof of ownership, but may be considered as  
1025 a factor in determining ownership.

1026 Section 17. Section **4-24-307** is amended to read:

1027 **4-24-307. Transportation of sheep, cattle, horses, domesticated elk, or mules --**  
1028 **Brand certificate or other evidence of ownership required -- Moving domesticated elk**  
1029 **intrastate -- Transit permit -- Contents.**

1030 (1) [~~No~~] Except as described in Subsection (2) and Section 4-39-305, a person may not  
1031 transport any sheep, cattle, horses, domesticated elk, or mules without having an official state  
1032 brand certificate or other proof of ownership in [~~his~~] the person's possession.

1033 (2) A person may transport domesticated elk without an official state brand certificate  
1034 or other proof of ownership if the person:

1035 (a) only moves domesticated elk accompanied by an intrastate transfer form provided  
1036 by the department;

1037 (b) reports the move to the department within five days;

1038 (c) only moves domesticated elk from a licensed facility to another licensed facility  
1039 owned by the same person; and

1040 (d) only moves domesticated elk intrastate.

1041 (3) An official state brand inspection certificate shall accompany all domesticated elk  
1042 sold or slaughtered.

1043 [~~(2)~~] (4) Each person transporting livestock for another person shall have a transit  
1044 permit signed by the owner or the owner's authorized agent specifying the:

1045 (a) name of the person driving the vehicle;

1046 (b) date of transportation;

1047 (c) place of origin or loading;

1048 (d) destination;

1049 (e) date of issuance;

1050 (f) number of animals being transported; and

1051 (g) full description of an animal being transported.

1052 Section 18. Section **4-24-502** is amended to read:

1053 **4-24-502. Unlawful acts specified -- Allegation concerning evidence of ownership**  
1054 **relative to hides.**

1055 (1) It is unlawful for any person to:

1056 (a) permit any cattle, calves, horses, mules, or sheep, except unweaned calves or colts,  
1057 that are not branded or marked in accordance with this chapter, to forage upon an open range in  
1058 this state or outside an enclosure;

1059 (b) brand or mark any livestock with a brand or mark [~~which~~] that is not a matter of  
1060 record on the central brand and mark registry;

1061 (c) obliterate, change, or remove a recorded brand or mark; [~~or~~]

1062 (d) destroy, mutilate, or conceal any hide with intent to, or for the purpose of, removing  
1063 evidence of ownership of the hide, or ownership of the animal from which the hide was  
1064 removed[;];

1065 (e) hold or ship an estray or livestock owned by another without notifying the owner, a  
1066 brand inspector, or law enforcement; or

1067 (f) offer for sale an estray or the livestock owned by another.

1068 (2) In any prosecution for violation of this section[;]:

1069 (a) the state [~~need not~~] does not need to allege the ownership of the hide[;] or the  
1070 animal or carcass from which the hide was removed; and

1071 (b) the complaint or information [~~being~~] is sufficient if [~~it~~] the complaint or  
1072 information alleges that ownership is unknown and that the hide is not the property of the  
1073 defendant.

1074 Section 19. Section **4-39-205** is amended to read:

1075 **4-39-205. License renewal.**

1076 (1) To renew a license, the licensee shall submit to the department the following:

1077 (a) renewal fee;

1078 [~~(a)~~] (b) [~~an inspection certificate~~] paperwork showing that the:

1079 (i) [~~the~~] domesticated elk, on the domesticated elk facility, have been inspected and  
1080 certified by the department for health, proof of ownership, and genetic purity certification for  
1081 all elk imported into the state; and

1082 (ii) ~~the~~ facility has been properly maintained, as provided in this chapter, during the  
1083 immediately preceding 60-day period; and

1084 ~~(b)~~ (c) [a] record of each purchase of domesticated elk and transfer of domesticated  
1085 elk into the facility, which shall include the following information:

1086 (i) name, address, and health approval number of the source;

1087 (ii) date of transaction; and

1088 (iii) number and sex.

1089 (2) (a) If the ~~application for renewal is~~ renewal fee and paperwork are not received on  
1090 or before April 30, a late fee will be charged.

1091 (b) A license may not be renewed until the fee is paid.

1092 (3) If the application and fee for renewal are not received on or before July 1, the  
1093 license may not be renewed, and a new license shall be required.

1094 Section 20. Section ~~4-39-304~~ is amended to read:

1095 **4-39-304. Marking domesticated elk.**

1096 (1) Each domesticated elk~~[, not previously tattooed,]~~ shall be marked by either [a  
1097 ~~tattoo, as provided in Subsection (2),]~~ an official USDA tag or by an electronic identification  
1098 tag, as provided in Subsection ~~[(3)]~~ (2):

1099 (a) within 30 days of a change of ownership; or

1100 (b) in the case of newborn calves, within 15 days after being weaned, but in any case,  
1101 no later than ~~[September 15]~~ January 31.

1102 ~~[(2) If a domesticated elk is identified with a tattoo, the tattoo shall:]~~

1103 ~~[(a) be placed peri-anally or inside the right ear; and]~~

1104 ~~[(b) consist of a four-digit herd number assigned by the department over a three-digit  
1105 individual animal number assigned by the owner.]~~

1106 ~~[(3)]~~ (2) If a domesticated elk is identified with an electronic identification tag, it shall  
1107 be placed in the right ear.

1108 Section 21. Section ~~4-39-305~~ is amended to read:

1109 **4-39-305. Transportation of domesticated elk to or from domesticated elk  
1110 facilities.**

1111 ~~[Any domesticated elk transferred to or from a domesticated elk facility within the state  
1112 shall be:]~~

1113 ~~[(1) accompanied by an intrastate movement of domesticated elk form specifying the~~  
 1114 ~~following:]~~

1115 ~~[(a) the name, address, and facility license number of the source;]~~

1116 ~~[(b) the number, sex, and individual identification number; and]~~

1117 ~~[(c) the name, address, and facility license number of the destination;]~~

1118 ~~[(2) accompanied by proof of genetic purity as provided in Section 4-39-301; and]~~

1119 ~~[(3) inspected by the department as provided in Section 4-39-306.]~~

1120 (1) A person may transport domesticated elk without an official state brand certificate  
 1121 or other proof of ownership if the person:

1122 (a) only moves domesticated elk accompanied by an intrastate transfer form provided  
 1123 by the department;

1124 (b) reports the move to the department within five days;

1125 (c) only moves domesticated elk from a licensed facility to another licensed facility  
 1126 owned by the same person; and

1127 (d) only moves domesticated elk intrastate.

1128 (2) An official state brand inspection certificate shall accompany all domesticated elk  
 1129 sold or slaughtered.

1130 Section 22. Section 4-39-306 is amended to read:

1131 **4-39-306. Inspection before movement, sale, or slaughter.**

1132 (1) Each domesticated elk facility licensee shall have the domesticated elk inspected by  
 1133 the department before ~~[any transportation,]~~ sale~~;~~ or slaughter.

1134 (2) ~~[Any]~~ Except as provided by Section 4-39-305, any person transporting or  
 1135 possessing domesticated elk or domesticated elk products shall have the appropriate brand  
 1136 inspection certificate in the person's possession.

1137 Section 23. Section 4-39-401 is amended to read:

1138 **4-39-401. Escape of domesticated elk -- Liability.**

1139 (1) ~~[It is the owner's responsibility to]~~ The owner shall try to capture ~~[any]~~  
 1140 ~~domesticated elk that [may have escaped]~~ escape.

1141 (2) The escape of a domesticated elk shall be reported immediately to the ~~[state~~  
 1142 ~~veterinarian or a brand inspector]~~ domestic elk program manager, who shall notify the Division  
 1143 of Wildlife Resources.

1144 (3) If the domesticated elk is not recovered within 72 hours of the escape, the  
1145 department, in conjunction with the Division of Wildlife Resources, shall take whatever action  
1146 is necessary to resolve the problem.

1147 (4) The owner shall reimburse the state or a state agency for any reasonable recapture  
1148 costs [~~that may be~~] incurred in the recapture or destruction of [~~the animal~~] an escaped  
1149 domesticated elk.

1150 (5) [~~Any~~] An escaped domesticated elk taken by a licensed hunter in a manner that  
1151 complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the  
1152 Wildlife Board shall be considered [~~to be~~] a legal taking and neither the licensed hunter, the  
1153 state, nor a state agency shall be liable to the owner for the killing.

1154 (6) The owner shall be responsible [~~to contain~~] for containing the domesticated elk to  
1155 ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic  
1156 purity of wild elk is protected.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**