

Representative Stephen G. Handy proposes the following substitute bill:

AGRICULTURE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the regulation of agriculture.

Highlighted Provisions:

This bill:

- ▶ addresses the regulation of bedding, upholstered furniture, quilted clothing, or filling material;
- ▶ addresses the Utah Dairy Commission;
- ▶ removes regulation of marks apart from brands;
- ▶ modifies regulation of brands;
- ▶ updates language related to websites promoting the sale of livestock;
- ▶ modifies language related to travel permits;
- ▶ addresses the powers of brand inspectors;
- ▶ modifies provisions related to contagious or infectious disease, epidemic, or poisoning including addressing stopping of vehicles and entering premises;
- ▶ addresses quarantines, including assessment of costs;
- ▶ modifies provisions related to aquaculture or fee fishing facilities, including addressing inspections and stocking; and
- ▶ makes technical changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **4-10-102**, as renumbered and amended by Laws of Utah 2017, Chapter 345

33 **4-10-104**, as last amended by Laws of Utah 2020, Chapter 316

34 **4-10-106**, as last amended by Laws of Utah 2020, Chapters 316 and 354

35 **4-10-107**, as renumbered and amended by Laws of Utah 2017, Chapter 345

36 **4-10-112**, as renumbered and amended by Laws of Utah 2017, Chapter 345

37 **4-22-103**, as last amended by Laws of Utah 2020, Chapter 6

38 **4-24-102**, as last amended by Laws of Utah 2018, Chapter 355

39 **4-24-201**, as renumbered and amended by Laws of Utah 2017, Chapter 345

40 **4-24-202**, as renumbered and amended by Laws of Utah 2017, Chapter 345

41 **4-24-203**, as renumbered and amended by Laws of Utah 2017, Chapter 345

42 **4-24-204**, as renumbered and amended by Laws of Utah 2017, Chapter 345

43 **4-24-205**, as renumbered and amended by Laws of Utah 2017, Chapter 345

44 **4-24-303**, as last amended by Laws of Utah 2018, Chapter 355

45 **4-24-305**, as renumbered and amended by Laws of Utah 2017, Chapter 345

46 **4-24-306**, as renumbered and amended by Laws of Utah 2017, Chapter 345

47 **4-24-401**, as renumbered and amended by Laws of Utah 2017, Chapter 345

48 **4-24-402**, as renumbered and amended by Laws of Utah 2017, Chapter 345

49 **4-24-403**, as renumbered and amended by Laws of Utah 2017, Chapter 345

50 **4-24-405**, as renumbered and amended by Laws of Utah 2017, Chapter 345

51 **4-24-502**, as last amended by Laws of Utah 2018, Chapter 355

52 **4-24-504**, as renumbered and amended by Laws of Utah 2017, Chapter 345

53 **4-31-115**, as last amended by Laws of Utah 2017, Chapter 345

54 **4-31-116**, as last amended by Laws of Utah 2017, Chapter 345

55 **4-37-104**, as last amended by Laws of Utah 2017, Chapter 412

56 **4-37-204**, as last amended by Laws of Utah 2017, Chapter 412

57 4-37-502, as last amended by Laws of Utah 2010, Chapter 378

58 4-37-503, as last amended by Laws of Utah 2010, Chapters 286 and 378

59 4-39-108, as last amended by Laws of Utah 2017, Chapter 345

60 ENACTS:

61 4-10-114, Utah Code Annotated 1953



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

64 Section 1. Section 4-10-102 is amended to read:

65 **4-10-102. Definitions.**

66 As used in this chapter:

67 (1) "Article" means [a] bedding, upholstered furniture, quilted clothing, or filling
68 material.

69 (2) "Bedding" means a:

70 (a) quilted, packing, mattress, or hammock pad; or

71 (b) mattress, boxspring, comforter, quilt, sleeping bag, studio couch, pillow, or cushion
72 made with a filling material that can be used for sleeping or reclining.

73 (3) "Consumer" means a person who purchases, rents, or leases an article for the
74 article's intended, everyday use.

75 (4) "Filling material" means cotton, wool, kapok, feathers, down, shoddy, hair, or other
76 material, or a combination of materials, whether loose or in bags, bales, batting, pads, or other
77 prefabricated form that is, or can be, used in bedding, upholstered furniture, or quilted clothing.

78 (5) "Label" means the display of written, printed, or graphic matter upon a tag or upon
79 the immediate container of a bedding, upholstered furniture, quilted clothing, or filling
80 material.

81 (6) (a) "Manufacture" means to make, process, or prepare from new or secondhand
82 material, in whole or in part, a bedding, upholstered furniture, quilted clothing, or filling
83 material for sale.

84 (b) "Manufacture" does not include making, processing, or preparing an article
85 described in Subsection (6)(a) if:

86 (i) a person sells three or fewer of the articles per year; and

87 (ii) the articles are sold by persons who are not primarily engaged in the making,

88 processing, or preparation of the articles.

89 (7) (a) "New material" means material that has not previously been used in the
90 manufacture of another article used for any purpose.

91 (b) "New material" includes:

92 (i) by-products from a textile mill using only new raw material synthesized from a
93 product that has been melted, liquified, and re-extruded[-]; and

94 (ii) down and feather that has been sterilized in accordance with the department's rules
95 made under Sections 4-10-103 and 4-10-113.

96 (8) "Owner's own material" means an article owned or in the possession of a person for
97 the person's own or a tenant's use that is sent to another person for manufacture or repair.

98 (9) "Quilted clothing" means a filled garment or apparel, exclusive of trim used for
99 aesthetic effect, or a stiffener, shoulder pad, interfacing, or other material that is made in whole
100 or in part from filling material and sold or offered for sale.

101 (10) "Reclaimed" or "reclaimed material" means material that would have otherwise
102 been disposed of as waste or used for energy recovery, but instead is collected and used as a
103 material input, in lieu of new primary material, as defined by rule by the department in
104 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

105 (11) "Recycled" or "recycled material" means material that has been reprocessed from
106 reclaimed material by means of an accepted manufacturing process and made into a final
107 product or into a component for incorporation into a product as defined by rule by the
108 department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

109 ~~[(10)]~~ (12) "Repair" means to restore, recover, alter, or renew bedding or upholstered
110 furniture for a consideration.

111 ~~[(11)]~~ (13) "Retailer" means a person who sells bedding, upholstered furniture, quilted
112 clothing, or filling material to a consumer for use primarily for personal, family, household, or
113 business purposes.

114 ~~[(12)]~~ (14) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver,
115 consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling
116 material.

117 (b) "Sale" or "sell" does not include a judicial, executor's, administrator's, or guardian's
118 sale of an item described in Subsection ~~[(12)]~~ (14)(a).

119 ~~[(13)]~~ (15) "Secondhand" means an article or filling material, or portion of an article or
120 filling material, that has previously been used.

121 ~~[(14)]~~ (16) "Sterilize" means to disinfect, decontaminate, sanitize, cleanse, or purify as
122 required by Section 4-10-113.

123 ~~[(15)]~~ (17) "Tag" means a card, flap, or strip attached to an article for the purpose of
124 displaying information required by this chapter or under rule made pursuant to it.

125 ~~[(16)]~~ (18) (a) "Used" means an article that has been sold to a consumer and has left
126 the store.

127 (b) "Used" does not include an article returned to the store:

128 (i) with ~~[its]~~ the article's original tags; and

129 (ii) in ~~[its]~~ the article's original packaging.

130 ~~[(17)]~~ (19) "Upholstered furniture" means portable or fixed furniture, except fixed
131 seats in motor vehicles, boats, or aircraft, that is made in whole or in part with filling material,
132 exclusive of trim used for aesthetic effect.

133 ~~[(18)]~~ (20) "Wholesaler" means a person who offers an article for resale to a retailer or
134 institution rather than a final consumer.

135 Section 2. Section 4-10-104 is amended to read:

136 **4-10-104. Manufacture, repair, or wholesale sale of bedding, upholstered**
137 **furniture, quilted clothing, or filling material -- Permit required.**

138 (1) It is unlawful for ~~[any]~~ a person to engage in the manufacture, repair, or wholesale
139 sale of ~~[any]~~ bedding, upholstered furniture, quilted clothing, or filling material without a
140 permit issued by the department.

141 (2) Notwithstanding Subsection (1), a person may engage in the repair of quilted
142 clothing without a permit issued by the department if that person is not otherwise required to
143 obtain a permit issued by the department under this chapter or by department rule.

144 Section 3. Section 4-10-106 is amended to read:

145 **4-10-106. Unlawful acts specified.**

146 It is unlawful for ~~[any]~~ a person to:

147 (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new
148 unless it is made from new material and properly tagged;

149 (2) sell bedding, upholstered furniture, quilted clothing or filling material made from

150 secondhand material [~~which~~] that is not properly tagged;

151 (3) label or sell a used or secondhand article as if it were a new article;

152 (4) use burlap or other material [~~which~~] that has been used for packing or baling, or to
153 use any unsanitary, filthy, or vermin or insect infested filling material in the manufacture or
154 repair of [~~any~~] an article;

155 (5) sell bedding, upholstered furniture, quilted clothing or filling material [~~which~~] that
156 is not properly tagged regardless of point of origin;

157 (6) use [~~any~~] a false or misleading statement, term, or designation on [~~any~~] a tag;

158 (7) use [~~any~~] a false or misleading label;

159 (8) sell new bedding, upholstered furniture, or quilted clothing with filling material
160 made of down, feather, wool, or hair that has not been properly sterilized; or

161 (9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding,
162 upholstered furniture, quilted clothing, or filling material without a permit issued by the
163 department as required by this chapter, unless otherwise exempt under Section 4-10-104 with
164 respect to the repair of quilted clothing.

165 Section 4. Section 4-10-107 is amended to read:

166 **4-10-107. Tagging requirements for bedding, upholstered furniture, and filling**
167 **material.**

168 (1) (a) [~~All bedding~~] The manufacturer, retailer, or repairer shall securely tag bedding,
169 upholstered furniture, and filling material [~~shall be securely tagged by the manufacturer,~~
170 ~~retailer, or repairer~~].

171 (b) [~~Tags~~] A tag shall be at least six square inches and plainly and indelibly labeled
172 with:

173 (i) information as the department requires by rule;

174 (ii) according to the filling material type, the words "All New Material," "Secondhand
175 Material," or "Owner's Material," stamped or printed on the label; and

176 (iii) the word "USED" stamped or printed on the label of a used mattress.

177 (c) [~~Each~~] A label shall be placed on the article in such a position as to facilitate ease
178 of examination.

179 (2) (a) If more than one type of filling material is used in an item, the percentage, by
180 weight, of each component part shall be listed in order of predominance.

181 (b) If a descriptive [~~statements are~~] statement is made about the frame, cover, or style
182 of the article, [~~such statements~~] the statement shall, in fact, be true.

183 (c) [~~All quilted~~] Quilted clothing shall be tagged and labeled in conformity with the
184 Federal Textile Fiber Products Identification Act, 15 U.S.C. Secs. 70 through [~~70k~~] 70i.

185 (3) [~~No~~] A person, except the purchaser, may not remove, deface, or alter a tag
186 attached according to this chapter.

187 (4) A used mattress shall be tagged with the word "USED," in accordance with rules
188 established by the department.

189 (5) The retailer of a used mattress shall display the mattress so that the "USED" tag is
190 clearly visible to a customer.

191 (6) (a) For items containing down or feather, a manufacturer, retailer, or repairer may
192 use the terms "reclaimed," "reclaimed material," "recycled," or "recycled material" on a tag
193 attached to the item if the item contains reclaimed or recycled material as defined in Section
194 4-10-102.

195 (b) If a term allowed under this Subsection (6) is included on a tag, a manufacturer,
196 retailer, or repairer shall:

197 (i) indicate whether an item is "new" or "used" as defined in this chapter; and

198 (ii) comply with Subsection (2).

199 Section 5. Section **4-10-112** is amended to read:

200 **4-10-112. Stop sale, use, or removal order authorized -- Conditions for release**
201 **specified -- Condemnation or seizure -- Procedure specified -- Award of costs authorized.**

202 (1) (a) The department may issue a "stop sale, use, or removal order" to [~~any~~] a
203 manufacturer, repairer, wholesaler, or retailer of any designated article or articles [~~which it~~]
204 that the department finds or has reason to believe violates this chapter.

205 (b) The order shall be in writing and no article subject to [it] the order shall be
206 removed, offered, or exposed for sale, except upon subsequent written release by the
207 department.

208 (c) Before a release is issued, the department may require the manufacturer, repairer,
209 wholesaler, or retailer of the "stopped" article to pay the expense incurred by the department in
210 connection with the withdrawal of the article from the market or for any other expense incurred
211 in enforcing this chapter and the department's rules made under this chapter.

212 (2) (a) The department [~~is authorized~~] may seek in a court of competent jurisdiction [~~to~~
213 ~~seek~~] an order of seizure or condemnation of [~~any~~] an article [~~which~~] that violates this chapter
214 or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to
215 prevent violation of this chapter.

216 (b) [~~No bond shall~~] A bond may not be required of the department in an injunctive
217 proceeding brought under this section.

218 (3) (a) Except as provided in Subsection (3)(b), if condemnation is ordered, the article
219 shall be disposed of as the court directs.

220 (b) The court may not order condemnation without giving the claimant of the article an
221 opportunity to apply to the court for permission to bring the article into conformance, or for
222 permission to remove [~~it~~] the article from the state.

223 (4) If the court orders condemnation, court costs, fees, storage, and other costs shall be
224 awarded against the claimant of the article.

225 Section 6. Section **4-10-114** is enacted to read:

226 **4-10-114. Use of reclaimed or recycled material.**

227 (1) A person may advertise an item filled with down, down and feather, or feather as
228 “new” if it is manufactured using 100% reclaimed or recycled material, provided that the tag
229 clearly discloses that the item is manufactured using 100% reclaimed or recycled material.

230 (2) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative
231 Rulemaking Act, make rules governing the use of reclaimed or recycled material under this
232 chapter.

233 Section 7. Section **4-22-103** is amended to read:

234 **4-22-103. Utah Dairy Commission created.**

235 (1) There is created an independent state agency known as the Utah Dairy Commission.

236 (2) Subject to Subsection (5), the Utah Dairy Commission consists of 11 members as
237 follows:

238 (a) nine voting members as follows:

239 (i) two from District 1, which consists of Cache and Rich Counties;

240 (ii) four members from District 2, which consists of Box Elder, Weber, Morgan, Salt
241 Lake, Davis, Utah, [~~and~~] Tooele, Wasatch, Summit, Duchesne, Uintah, and Daggett Counties;

242 and

243 (iii) three members from District 3, which consists of Millard, Beaver, Iron,
244 Washington, Sanpete, Carbon, Emery, Grand, Juab, San Juan, Piute, Wayne, Kane, Garfield,
245 and Sevier Counties; and

246 (b) two nonvoting members as follows:

247 (i) the commissioner or the commissioner's designee; and

248 (ii) the dean of the College of Agriculture at Utah State University, or the dean's
249 designee.

250 (3) The voting members listed in Subsection (2)(a) shall be elected to four-year terms
251 of office as provided in Section [4-22-105](#).

252 (4) A voting member shall enter office on July 1 of the year in which the member is
253 elected. The commission shall stagger the voting members' terms so that no more than three
254 voting members' terms expire in a given year.

255 (5) (a) To maintain equitable representation of active milk producers on the
256 commission, the commission may, by a two-thirds vote:

257 (i) alter the boundaries comprising the districts established in Subsection (2)(a); or

258 (ii) increase or decrease the number of voting members in each district without altering
259 the total number of commission members.

260 (b) If the commission increases the number of voting members in a district under this
261 Subsection (5), a new member will be elected as provided in Section [4-22-105](#).

262 (c) If the commission decreases the number of voting members in a district under this
263 Subsection (5), each member representing the district will continue in office through the end of
264 the member's term and the member whose term expires first will not be replaced or reelected
265 upon expiration of the member's term.

266 (d) If the commission acts under this Subsection (5), it shall report the changes to the
267 Natural Resources, Agriculture, and Environment Interim Committee.

268 (6) A member shall be:

269 (a) a citizen of the United States;

270 (b) 21 years ~~[of age]~~ old or older;

271 (c) an active milk producer with five consecutive years of experience in milk
272 production within this state immediately preceding election; and

273 (d) a resident of Utah and the district represented.

274 Section 8. Section 4-24-102 is amended to read:

275 **4-24-102. Definitions.**

276 As used in this chapter:

277 (1) "Brand" means ~~[any]~~ an identifiable mark, including a tattoo or cutting and shaping
278 of the ears or brisket area, applied to livestock that is intended to show ownership and the
279 mark's location.

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

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

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

284 (5) "Livestock" means cattle, calves, horses, mules, sheep, goats, or hogs.

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

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

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

291 (ii) a place where an association of livestock breeders under the association's own
292 management;

293 (A) offers registered livestock or breeding sires for sale~~;~~₂

294 (B) assumes ~~[att]~~ the responsibility for the sale~~;~~₂

295 (C) guarantees title to the livestock or sires sold~~;~~₂ and

296 (D) arranges with the department for brand inspection of ~~[att]~~ the animals sold.

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

299 ~~[(8)]~~ (7) "Open range" means land upon which cattle, sheep, or other domestic animals
300 are grazed or permitted to roam by custom, license, lease, or permit.

301 ~~[(9)]~~ (8) "Slaughterhouse" means ~~[any]~~ a building, plant, or establishment where
302 animals are harvested, dressed, or processed and ~~[their]~~ the animals' meat or meat products
303 produced for human consumption.

304 Section 9. Section 4-24-201 is amended to read:

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Part 2. Brand

**4-24-201. Central Brand Registry -- Division of state into brand districts --
Identical or confusingly similar brands -- Publication of registered brands.**

(1) The department shall maintain a central Brand [~~and Mark~~] Registry [~~which shall list] that lists~~ each brand [~~or mark~~] recorded in this state. For each brand [~~or mark~~] registered the list shall specify:

(a) the name and address of the registrant;

(b) a facsimile or diagram of the brand recorded [~~or a diagram showing the kind of mark recorded~~];

(c) the location of the brand [~~or mark~~] upon the animal; and

(d) the date the brand [~~or mark~~] is filed in the [~~registry~~] central Brand Registry.

(2) The commissioner may divide the state into districts for the purpose of recording [~~marks~~] brands, but [~~no mark~~] a brand that is identical or confusingly similar to a [~~mark~~] brand previously recorded in a district [~~shall~~] may not be recorded.

(3) (a) [~~No~~] A brand that is identical or confusingly similar to a brand previously filed in the central [~~brand and mark registry shall~~] Brand Registry may not be recorded.

(b) If two or more brands [~~or marks~~] appear identical or confusingly similar:

(i) the brand [~~or mark~~] first recorded shall prevail over a later conflicting brand [~~or mark~~]; and

(ii) the later brand [~~or mark~~] shall be cancelled and [~~all~~] the recording fees refunded to the owner.

(4) (a) The commissioner shall publish from time to time a list of all brands [~~and marks~~] recorded in the central Brand [~~and Mark~~] Registry and may issue supplements to [~~such~~] that publication containing additional brands [~~and marks~~] or changes in ownership of brands [~~and marks~~] recorded after the last publication.

(b) The [~~brand book~~] publication published under Subsection (4)(a) shall contain a facsimile or diagram of all brands [~~and marks~~] recorded together with the owner's name and address.

(c) The commissioner shall, upon request, send one copy of the [~~brand book~~] publication published under Subsection (4)(a) and each supplement to each brand inspector, county clerk, county sheriff, livestock organization, [~~and~~] or any other person [~~deemed~~]

336 considered appropriate.

337 (d) [~~Brand books and supplements shall be~~] The department shall make publications
338 under this Subsection (4) available to the public at the cost of printing and distribution per
339 [~~book or supplement~~] publication.

340 Section 10. Section **4-24-202** is amended to read:

341 **4-24-202. Recordation of brand.**

342 (1) (a) Application for a recorded brand [~~or mark~~] shall be made to the department
343 upon forms prescribed and furnished by the department.

344 (b) The application shall contain [~~such~~] the information [~~as~~] the commissioner
345 prescribes.

346 (c) [~~No~~] An application [~~shall~~] may not be approved without payment of the
347 appropriate recording fee.

348 (d) Upon receipt of a proper application, payment of the recording fee, and recordation
349 of the brand [~~or mark~~] in the central Brand [~~or Mark~~] Registry of the department, the
350 commissioner shall issue the applicant a certified copy of recording that entitles the applicant
351 to the exclusive use of the brand [~~or mark~~] recorded.

352 (2) (a) [~~Each~~] A recorded brand [~~or mark~~] filed with the central Brand [~~and Mark~~]
353 Registry [~~shall expire~~] expires during the calendar year 1980, and during each fifth year
354 thereafter.

355 (b) (i) The department shall give notice in writing to all persons who are owners of
356 recorded brands [~~and marks~~] within a reasonable time [~~prior to~~] before the date of expiration of
357 recordation.

358 (ii) The notice required by this Subsection (2)(b) may be provided by email or regular
359 mail at the department's discretion.

360 (iii) The holder of a registered brand has an affirmative duty to inform the department
361 of a change to the contact information provided on the initial application for a recorded brand.

362 (c) Brand [~~or mark~~] renewal is [~~effected~~] affected by filing an appropriate application
363 with the department together with payment of the renewal fee.

364 (d) A recorded brand [~~or mark~~], not timely renewed, shall lapse and be removed from
365 the central Brand [~~and Mark~~] Registry.

366 Section 11. Section **4-24-203** is amended to read:

367 **4-24-203. Fees for recordation, transfer, renewal, and certified copies of brands.**

368 (1) The department, with the approval of the Livestock Brand Board, shall charge and
 369 collect fees for the recordation, transfer, and renewal of ~~[any]~~ a brand ~~[or mark]~~ in each
 370 position, and may charge a fee for a certified copy of the recordation.

371 (2) The fees shall be determined by the department pursuant to Subsection 4-2-103(2).
 372 Section 12. Section 4-24-204 is amended to read:

373 **4-24-204. Effect of recorded brand -- Transfer -- Reservation of certain brands.**

374 (1) Except as provided in Subsection (2), the owner of a recorded brand ~~[or mark]~~ has a
 375 vested property right in the brand ~~[or mark]~~ that is transferable by a duly acknowledged
 376 instrument, provided that a transferee has no rights in the brand ~~[or mark]~~ until the instrument
 377 of transfer is recorded with the department.

378 (2) Notwithstanding any other provision of this chapter:

379 (a) no person other than a member of the Ute Indian Tribe has any vested property right
 380 in the brand "ID" which is reserved exclusively for use by members of the Ute Indian Tribe on
 381 the Uintah and Ouray Reservation; and

382 (b) no person other than a member of the Navajo Indian Tribe has any vested right in
 383 the brand "- N" (Bar N) which is reserved exclusively for use by members of the Navajo Indian
 384 Tribe on the Navajo Indian Reservation as long as it appears on the left shoulder of the animal
 385 branded.

386 (3) The left jaw of cattle is reserved exclusively for use by the department to identify
 387 diseased cattle.

388 Section 13. Section 4-24-205 is amended to read:

389 **4-24-205. Livestock on open range or outside enclosure to be branded -- Cattle**
 390 **upon transfer of ownership to be branded -- Exceptions.**

391 (1) (a) ~~[Except as provided in]~~ Subject to Subsections (1)(b) and (c), ~~[no]~~ livestock
 392 ~~[shall]~~ may not forage upon an open range in this state or outside an enclosure unless ~~[they~~
 393 ~~bear]~~ the livestock bears a brand ~~[or mark]~~ recorded in accordance with this chapter.

394 (b) Swine, goats, and unweaned calves or colts are not required to bear a brand ~~[or~~
 395 ~~mark]~~ to forage upon open range or outside an enclosure.

396 (c) Domesticated elk may not forage upon open range or outside an enclosure under
 397 any circumstances as provided in Chapter 39, Domesticated Elk Act.

398 (2) (a) Except as provided in Subsection (2)(b), ~~[a]t~~ cattle, upon sale or other transfer
399 of ownership, shall be branded ~~[or marked]~~ with the recorded brand ~~[or mark]~~ of the new
400 owner within 30 days after transfer of ownership.

401 (b) ~~[No branding or marking]~~ Branding, upon change of ownership, is not required
402 within the 30-day period for:

403 (i) unweaned calves;

404 (ii) registered or certified cattle;

405 (iii) youth project calves, if the number transferred is less than five; or

406 (iv) dairy cattle held on farms.

407 Section 14. Section ~~4-24-303~~ is amended to read:

408 **4-24-303. Livestock -- Verification of ownership through brand inspection --**
409 **Issuance of certificate of brand inspection -- Brand inspector may demand evidence of**
410 **ownership -- Brand inspection of livestock seized by the federal government prohibited --**
411 **Exception.**

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

414 (2) After conducting the brand inspection, the brand inspector, if satisfied that the
415 livestock subject to inspection bears registered brands ~~[or marks]~~ owned by the owner of the
416 livestock, shall issue a brand inspection certificate to the owner or owner's agent.

417 (3) The brand inspector shall record the number, sex, breed, and brand ~~[or mark]~~ on
418 each animal inspected together with the owner's name.

419 (4) If any livestock subject to inspection bears a brand ~~[or mark]~~ other than that of the
420 owner, or if no brand ~~[or mark]~~ appears on the livestock, or if the ownership of the livestock is
421 disputed, the brand inspector may demand evidence of ownership before issuing a brand
422 inspection certificate or may decline to issue a brand inspection certificate until the ownership
423 dispute is resolved.

424 (5) A brand inspector may not issue a brand inspection certificate for ~~[any]~~ privately
425 owned livestock seized by the federal government unless the:

426 (a) brand inspector receives consent from the livestock's owner;

427 (b) owner is unknown; or

428 (c) brand inspector receives a copy of a court order authorizing the seizure.

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

431 Section 15. Section **4-24-305** is amended to read:

432 **4-24-305. Transportation by air or rail -- Brand inspection required --**
433 **Application for brand inspection -- Time and place of inspection.**

434 (1) Except as provided in Subsection (2), [~~no~~] a person may not offer, [~~or~~] and a
435 railroad or airline company may not accept, [~~any~~] cattle, calves, horses, domesticated elk, or
436 mules for transport until [~~they have~~] the animal has been brand inspected.

437 (2) Before cattle, calves, horses, domesticated elk, or mules are transported by rail or
438 air, the shipper shall:

439 (a) request the department to inspect the brands [~~and marks~~] of the animals being
440 transported; and

441 (b) specify the time and place where the animals may be inspected.

442 Section 16. Section **4-24-306** is amended to read:

443 **4-24-306. Movement across state line -- Brand inspection required -- Exception --**
444 **Request for brand inspection -- Time and place of inspection.**

445 (1) Except as provided in Subsection (2), a person may not drive or transport any cattle,
446 calves, horses, domesticated elk, or mules from any place within this state to a place outside
447 this state until [~~they have~~] the animal has been brand inspected.

448 (2) Subsection (1) does not apply if the animals specified in Subsection (1) customarily
449 forage on an open range which transgresses the Utah state line and that of an adjoining state.

450 (3) The owner or person responsible for driving or transporting the animals shall
451 request the department to inspect the brands [~~and marks~~] of the animals to be moved.

452 (4) The department shall conduct the inspection at the time and place determined by
453 the department.

454 Section 17. Section **4-24-401** is amended to read:

455 **4-24-401. Hides and pelts -- Bill of sale to accompany purchase -- Purchaser to**
456 **maintain records -- Hides and records examination and inspection.**

457 (1) (a) [~~Any~~] A person who buys a hide or pelt shall secure a bill of sale from the
458 seller.

459 (b) The bill of sale shall be executed in duplicate with one copy being retained by the

460 seller and the other by the buyer.

461 (c) The bill of sale shall specify the number of hides or pelts sold and the brand [~~or~~
462 ~~mark~~] borne by each hide or pelt.

463 (2) (a) [~~Each~~] A hide buyer within this state shall maintain a record specifying the
464 name and address of the seller, date of purchase, and the brands or other identification found on
465 the hides and pelts purchased.

466 (b) The hides and records of any hide buyer are subject to examination and inspection
467 by the department at reasonable times and places.

468 Section 18. Section ~~4-24-402~~ is amended to read:

469 **4-24-402. Livestock markets -- Records to be maintained -- Retention of records**
470 **-- Schedule of fees and charges to be posted.**

471 (1) [~~Each~~] An owner or operator of a livestock market shall keep a record of:

472 (a) the date [~~each~~] a consignment of livestock is received for sale together with the
473 number of each type of livestock within [~~such~~] the consignment;

474 (b) the name and address of [~~each~~] the buyer;

475 (c) the date of sale and the number and species of livestock purchased by [~~each~~] the
476 buyer; and

477 (d) the description and brand [~~or mark~~] appearing on each animal at the time of sale to
478 the buyer.

479 (2) [~~The~~] An owner or operator of a livestock market shall retain the records mandated
480 by this section [~~shall be retained~~] for a period of two years from the date on which the livestock
481 market sold the livestock.

482 (3) A schedule of [~~all~~] the fees and commission rates charged by the livestock market
483 shall be posted in a conspicuous place on the premises of each market.

484 (4) A statement of the gross sales price, commission, and other fees charged for the
485 sale of [~~each~~] a consignment shall be available for inspection by the department, and a copy
486 furnished the owner or consignor of the livestock.

487 Section 19. Section ~~4-24-403~~ is amended to read:

488 **4-24-403. Websites promoting the sale of livestock.**

489 (1) A website, created and maintained within the state, that markets the sale of
490 livestock shall have the following statement clearly visible on each web page that displays

491 advertised livestock: "Legality of Sales and Purchase, Health Laws. If you sell or purchase
492 livestock on this site, you shall comply with all applicable legal requirements governing the
493 transfer and shipment of livestock, including Title 4, Chapter 24, Utah Livestock Brand and
494 Anti-Theft Act, and Title 4, Chapter 31, Control of Animal Disease. Please contact the Utah
495 Department of Agriculture and Food at [~~801-538-7137~~] 801-982-2200 with any questions.".

496 (2) A person who violates this section [~~shall be~~] is subject to the penalties described in
497 Section 4-24-506.

498 Section 20. Section **4-24-405** is amended to read:

499 **4-24-405. Travel permit in lieu of brand inspection certificate -- Fees.**

500 (1) The department may issue a permit upon the payment of a fee determined by the
501 department pursuant to Subsection 4-2-103(2), in lieu of a certificate of brand inspection, for
502 the transport of [~~any~~] a show horse, show mule, or show cattle transported from [~~any~~] a place
503 within this state to a place outside the state.

504 (2) The words "travel permit" shall be stamped or printed on the permit.

505 (3) A permit:

506 (a) shall accompany [~~each~~] a show animal while the show animal is in transit and shall
507 identify the show animal to which the permit applies by age, sex, color, brand, [~~mark,~~] and
508 scars; and

509 (b) is valid for the calendar year of the date of issuance, which date shall appear on the
510 permit.

511 Section 21. Section **4-24-502** is amended to read:

512 **4-24-502. Unlawful acts specified -- Allegation concerning evidence of ownership**
513 **relative to hides.**

514 (1) It is unlawful for [~~any~~] a person to:

515 (a) permit [~~any~~] cattle, calves, horses, mules, or sheep, except unweaned calves or
516 colts, that are not branded [~~or marked~~] in accordance with this chapter, to forage upon an open
517 range in this state or outside an enclosure;

518 (b) brand [~~or mark any~~] livestock with a brand [~~or mark~~] that is not a matter of record
519 on the central [~~brand and mark registry~~] Brand Registry;

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

521 (d) destroy, mutilate, or conceal [~~any~~] a hide with intent to, or for the purpose of,

522 removing evidence of ownership of the hide, or ownership of the animal from which the hide
523 was removed;

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

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

527 (2) In ~~[any]~~ a prosecution for violation of this section:

528 (a) the state does not need to allege the ownership of the hide or the animal or carcass
529 from which the hide was removed; and

530 (b) the complaint or information is sufficient if the complaint or information alleges
531 that ownership is unknown and that the hide is not the property of the defendant.

532 Section 22. Section ~~4-24-504~~ is amended to read:

533 **4-24-504. Enforcement -- Brand inspector's powers delineated.**

534 (1) A brand inspector ~~[is empowered with]~~ has the authority of a special function
535 officer for the purpose of enforcing this chapter and ~~[such an]~~ the brand inspector may, if
536 proper, stop ~~[any]~~ a vehicle carrying livestock or livestock carcasses for the purpose of
537 examining brands, ~~[marks,]~~ certificates of brand inspection, and bills of lading or bills of sale
538 relating to the livestock in transit.

539 (2) (a) ~~[Brand inspectors]~~ A brand inspector may enter ~~[any]~~ premises where livestock
540 are kept or maintained for the purpose of examining brands ~~[or marks]~~.

541 (b) If admittance is refused, the department may proceed immediately to obtain an ex
542 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
543 for the purpose of examining brands ~~[or marks]~~ or other evidence of ownership.

544 Section 23. Section ~~4-31-115~~ is amended to read:

545 **4-31-115. Contagious or infectious disease, or any epidemic or poisoning -- Duties**
546 **of department.**

547 (1) (a) The department shall investigate and may quarantine ~~[any]~~ a reported case of
548 contagious or infectious disease, or any epidemic or poisoning, affecting a domestic animal or
549 an animal that the department believes may jeopardize the health of animals within the state.

550 (b) The department shall make a prompt and thorough examination of ~~[att]~~ the
551 circumstances surrounding the disease, epidemic, or poisoning and may order quarantine, care,
552 or any necessary remedies.

553 (c) The department may also order immunization or testing and sanitary measures to
554 prevent the spread of disease.

555 (d) An investigation involving fish or wildlife shall be conducted under a cooperative
556 agreement with the Division of Wildlife Resources.

557 (2) (a) A brand inspector has the authority of a special function officer and, in
558 coordination with the state veterinarian, may stop a vehicle carrying livestock or livestock
559 carcasses for the purpose of investigating a reported case of contagious or infectious disease,
560 epidemic, or poisoning.

561 (b) A brand inspector has the authority of a special function officer and, in
562 coordination with the state veterinarian, may enter premises where livestock are kept or
563 maintained for the purpose of investigating a reported case of contagious or infectious disease,
564 epidemic, or poisoning.

565 (c) If admittance is refused, the department may proceed immediately to obtain an ex
566 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
567 for the purpose of investigating a reported case of contagious or infectious disease, epidemic,
568 or poisoning.

569 ~~[(2)]~~ (3) (a) If the owner or person in possession of [~~such~~] an animal with a contagious
570 or infectious disease, epidemic, or poisoning, after written notice from the department, fails to
571 take the action ordered, the commissioner [~~is authorized to~~] may seize and hold the animal and
572 take action necessary to prevent the spread of disease, including immunization, testing,
573 dipping, or spraying.

574 (b) An animal seized for testing or treatment under this section may be sold by the
575 commissioner at public sale to reimburse the department for [~~all~~] the costs incurred in the
576 seizure, testing, treatment, maintenance, and sale of the animal unless the owner, before the
577 sale, tenders payment for the costs incurred by the department.

578 (c) (i) [~~No~~] The commissioner may not sell a seized animal [~~shall be sold~~] until the
579 owner or person in possession of the animal is served with a notice specifying the itemized
580 costs incurred by the department, the time, place, and purpose of sale, and the number of
581 animals to be sold.

582 (ii) The notice shall be served at least three days in advance of sale in the manner:

583 (A) prescribed for personal service in Rule 4(d)(1), Utah Rules of Civil Procedure; or

584 (B) if the owner cannot be found after due diligence, prescribed for service by
585 publication in Rule 4(d)(4), Utah Rules of Civil Procedure.

586 [~~3~~] (4) (a) Any amount realized from the sale of the animal over the total charges
587 shall be paid to the owner of the animal if the owner is known or can by reasonable diligence
588 be found.

589 (b) If the owner is unknown and cannot be found by reasonable diligence, as described
590 in Subsection [~~3~~] (4)(a), the excess shall remain in the General Fund.

591 (c) If the total cost incurred is greater than the amount realized, the owner shall pay the
592 difference.

593 Section 24. Section 4-31-116 is amended to read:

594 **4-31-116. Quarantine -- Authority of individuals to assist in maintenance of**
595 **quarantine -- Charges.**

596 (1) The commissioner may quarantine [~~any~~] an infected domestic animal or area within
597 the state to prevent the spread of infectious or contagious disease.

598 (2) A brand inspector has the authority of a special function officer for the purpose of
599 enforcing a quarantine.

600 (3) The state veterinarian may:

601 (a) take any action the department warrants, in the department's sole discretion,
602 necessary to enforce the quarantine; and

603 (b) delegate an action described in Subsection (3)(a) to another department employee,
604 as appropriate, to ensure the quarantine is being enforced.

605 [~~2~~] (4) A sheriff or other peace officer in the state shall, upon request of the
606 commissioner, assist the department in maintaining a quarantine and arrest a person who
607 violates the quarantine.

608 [~~3~~] (5) The department shall pay [~~all~~] the costs and fees incurred by any law
609 enforcement authority in assisting the department.

610 (6) The department may charge a person who violates a quarantine the costs to the
611 department incurred in enforcing the quarantine of that person's animal and use that money to
612 reimburse law enforcement or the state in expenditures related to the quarantine.

613 Section 25. Section 4-37-104 is amended to read:

614 **4-37-104. Department's responsibilities.**

615 (1) The department is responsible for enforcing laws and rules made by the Wildlife
 616 Board governing species of aquatic animals [~~which~~] that may be imported into the state or
 617 possessed or transported within the state that are applicable to aquaculture or fee fishing
 618 facilities [~~and the promotion of the state's aquaculture industry~~].

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

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

623 (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to
 624 be deposited in, or harvested from aquaculture or fee fishing facilities to wild aquatic animals,
 625 other animals, and humans.

626 Section 26. Section ~~4-37-204~~ is amended to read:

627 **4-37-204. Sale of aquatic animals from aquaculture facilities.**

628 (1) (a) Except as provided by Subsection [~~(1)(b)~~] (1)(c) and subject to Subsection
 629 (1)(b), a person holding a certificate of registration for an aquaculture facility may take an
 630 aquatic animal as approved on the certificate of registration from the facility at any time and
 631 offer the aquatic animal for sale[~~; however,~~].

632 (b) A live aquatic [animals] animal may be sold within Utah only to a person who:

633 (i) has been issued a certificate of registration to possess the aquatic animal; or
 634 (ii) is eligible to receive the aquatic animal without a certificate of registration under
 635 [~~Division of Wildlife Resources~~] Wildlife Board rules.

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

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

639 [~~(ii) provides the buyer with a brochure published by the Division of Wildlife~~
 640 ~~Resources that summarizes the statutes and rules related to a private fish pond or short-term~~
 641 ~~fishing event and the possession of fish;~~]

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

644 [~~(iv)~~] (iii) stocks the species[~~; strain,~~] and reproductive capability of [~~fish~~] aquatic
 645 animals authorized by the Wildlife Board in accordance with Section ~~23-15-10~~ for stocking in

646 the area where the pond or holding facility is located.

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

649 (a) date of transaction;

650 (b) name, address, certificate of registration number, and health approval number~~[, and~~
651 ~~signature of seller]~~;

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

653 (i) species; and

654 ~~[(ii) strain; and]~~

655 ~~[(iii)]~~ (ii) reproductive capability; and

656 (d) name and address of the receiver.

657 (3) (a) A person holding a certificate of registration for an aquaculture facility shall
658 submit to the department an annual report of each sale of live aquatic animals or each transfer
659 of live aquatic animals ~~[to:]~~ in Utah. The department shall forward the report to the Division of
660 Wildlife Resources. The department or Division of Wildlife Resources may request copies of
661 receipts from an aquaculture facility.

662 ~~[(i) another aquaculture facility; or]~~

663 ~~[(ii) a fee fishing facility.]~~

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

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

666 (ii) number and weight ~~[by species]~~ of aquatic animals by species and reproductive
667 capacity;

668 (iii) date of sale or transfer; and

669 (iv) name, address, phone number, and certificate of registration number of the
670 receiver.

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

674 ~~[(b) The report shall contain:]~~

675 ~~[(i) the name, address, and health approval number of the person;]~~

676 ~~[(ii) the name, address, and phone number of the private fish pond's owner or~~

677 short-term fishing event's operator;]
678 [(iii) the number and weight of fish by:]
679 [(A) species;]
680 [(B) strain; and]
681 [(C) reproductive capability;]
682 [(iv) date of sale or transfer;]
683 [(v) the location of the private fish pond's or short-term fishing event's holding facility;
684 and]
685 [(vi) verification that the private fish pond or short-term fishing event's holding facility
686 was inspected and is in compliance with Subsections ~~23-15-10~~(2) and (3)(c).]
687 (4) Geographic coordinates of the stocking location shall be provided if the receiver is
688 eligible to stock the aquatic animal without a certificate of registration under Wildlife Board
689 rules.
690 (5) ~~[The reports required by Subsections (3) and (4)]~~ A report required by Subsection
691 (3) shall be submitted before:
692 (a) a certificate of registration is renewed or a subsequent certificate of registration is
693 issued ~~[for an aquaculture facility in the state];~~ or
694 (b) a health approval number is issued ~~[for an out-of-state source].~~
695 Section 27. Section ~~4-37-502~~ is amended to read:
696 **4-37-502. Inspections -- Health approval report -- Report for quarantine facility**
697 **-- Qualifications of inspectors -- Notification of department.**
698 (1) ~~[(a) Except as provided by Subsection (1)(b), approval]~~ Approval shall be based
699 upon inspections carried out in accordance with standards and rules of the Fish Health Policy
700 Board made pursuant to Section ~~4-37-503~~.
701 ~~[(b) An owner or operator of an aquaculture facility that is under quarantine or whose~~
702 ~~health approval has been canceled or denied prior to July 1, 2007 may seek health approval~~
703 ~~without submitting or complying with a biosecurity plan required by rule by submitting a new~~
704 ~~health inspection report to the department.]~~
705 ~~[(2) (a) The inspections shall be done by an individual who has received certification~~
706 ~~from the American Fisheries Society as a fish health inspector.]~~
707 (2) (a) An inspection shall be conducted under the direction of an individual certified

708 by the American Fisheries Society as an aquatic animal health inspector or fish pathologist. A
709 sample may be collected by a federally accredited veterinarian, a state or federal animal health
710 official, or an American Fisheries Society certified aquatic animal health inspector or fish
711 pathologist.

712 (b) An inspection of an aquaculture facility may not be done by an inspector who is
713 employed by, or has pecuniary interest in, the facility being inspected.

714 (c) The department shall post on its website a current list of:

715 (i) certified fish health inspectors; and

716 (ii) approved laboratories to which a fish health inspector may send the samples
717 collected during the inspections required by this section.

718 (d) (i) If the fish health inspector conducting the inspection is not an employee of the
719 department, the owner or operator of the aquaculture facility shall notify the department of the
720 date and time of the inspection at least five business days before the date on which the
721 inspection will occur.

722 (ii) The department may be present for the inspection.

723 (3) To receive a health approval number, inspection reports and other evidence of the
724 disease status of a source facility shall be submitted to the agency responsible for certifying the
725 source as health approved pursuant to Section 4-37-501.

726 Section 28. Section 4-37-503 is amended to read:

727 **4-37-503. Fish Health Policy Board.**

728 (1) There is created within the department the Fish Health Policy Board [~~which~~] that
729 shall establish policies designed to prevent the outbreak of, control the spread of, and eradicate
730 pathogens that cause disease in aquatic animals.

731 (2) The Fish Health Policy Board shall:

732 (a) in accordance with Subsection (6)(b), determine procedures and requirements for
733 certifying a source of aquatic animals as health approved, including:

734 (i) the pathogens for which inspection is required to receive health approval;

735 (ii) the pathogens that may not be present to receive health approval; and

736 (iii) standards and procedures required for the inspection of aquatic animals;

737 (b) establish procedures for the timely reporting of the presence of a pathogen and
738 disease threat;

- 739 (c) create policies and procedures for, and appoint, an emergency response team to:
- 740 (i) investigate a serious disease threat;
- 741 (ii) develop and monitor a plan of action; and
- 742 (iii) report to:
- 743 (A) the commissioner of agriculture and food;
- 744 (B) the director of the Division of Wildlife Resources; and
- 745 (C) the chair of the Fish Health Policy Board; and
- 746 (d) develop a unified statewide aquaculture disease control plan.
- 747 (3) The Fish Health Policy Board shall advise the commissioner of agriculture and
- 748 food and the executive director of the Department of Natural Resources regarding:
- 749 (a) educational programs and information systems to educate and inform the public
- 750 about practices that the public may employ to prevent the spread of disease; and
- 751 (b) communication and interaction between the department and the Division of
- 752 Wildlife Resources regarding fish health policies and procedures.
- 753 (4) (a) (i) The governor shall appoint the following seven members to the Fish Health
- 754 Policy Board:
- 755 (A) one member from names submitted by the Department of Natural Resources;
- 756 (B) one member from names submitted by the Department of Agriculture and Food;
- 757 (C) one member from names submitted by a nonprofit corporation that promotes sport
- 758 fishing;
- 759 (D) one member from names submitted by a nonprofit corporation that promotes the
- 760 aquaculture industry;
- 761 (E) one member from names submitted by the Department of Natural Resources and
- 762 the Department of Agriculture and Food;
- 763 (F) one member from names submitted by a nonprofit corporation that promotes sport
- 764 fishing; and
- 765 (G) one member from names submitted by a nonprofit corporation that promotes the
- 766 aquaculture industry.
- 767 (ii) The members appointed under Subsections (4)(a)(i)(E) through (G) shall be:
- 768 (A) (I) faculty members of an institution of higher education; or
- 769 (II) qualified professionals; and

770 (B) have education and knowledge in:

771 (I) fish pathology;

772 (II) business;

773 (III) ecology; or

774 (IV) parasitology.

775 (iii) At least one member appointed under Subsections (4)(a)(i)(E) through (G) shall
776 have education and knowledge about fish pathology.

777 (iv) (A) A nominating person shall submit at least three names to the governor.

778 (B) If the governor rejects all the names submitted for a member, the recommending
779 person shall submit additional names.

780 (b) Except as required by Subsection (4)(c), the term of office of board members shall
781 be four years.

782 (c) Notwithstanding the requirements of Subsection (4)(b), the governor shall, at the
783 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
784 board members are staggered so that approximately half of the board is appointed every two
785 years.

786 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
787 appointed for the unexpired term.

788 (e) The board members shall elect a chair of the board from the board's membership.

789 (f) The board shall meet upon the call of the chair or a majority of the board members.

790 (g) An action of the board shall be adopted upon approval of the majority of voting
791 members.

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

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

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

796 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
797 63A-3-107.

798 (6) (a) The board shall make rules consistent with its responsibilities and duties
799 specified in this section.

800 (b) Except as provided by this chapter, [aH] rules adopted by the Fish Health Policy

801 Board shall be consistent with the suggested procedures for the detection and identification of
802 pathogens published by the American Fisheries Society's Fish Health Section or the World
803 Organisation for Animal Health, Manual for Diagnostic Tests for Aquatic Animals.

804 (c) (i) Rules of the department and Fish Health Policy Board pertaining to the control
805 of disease shall remain in effect until the Fish Health Policy Board enacts rules to replace those
806 provisions.

807 (ii) The Fish Health Policy Board shall promptly amend rules that are inconsistent with
808 the current suggested procedures published by the American Fisheries Society or the World
809 Organisation for Animal Health, Manual for Diagnostic Tests for Aquatic Animals.

810 (d) The Fish Health Policy Board may waive a requirement established by the Fish
811 Health Policy Board's rules if:

812 (i) the rule specifies the waiver criteria and procedures; and

813 (ii) the waiver will not threaten other aquaculture facilities or wild aquatic animal
814 populations.

815 Section 29. Section **4-39-108** is amended to read:

816 **4-39-108. Deposit of fees.**

817 The department shall deposit all fees collected under this chapter into the Utah
818 Livestock Brand and Anti-Theft Account created in Section [~~4-24-502~~] 4-24-501.