

HB0423S02 compared with HB0423S01

~~{deleted text}~~ shows text that was in HB0423S01 but was deleted in HB0423S02.

inserted text shows text that was not in HB0423S01 but was inserted into HB0423S02.

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~~{Representative Joel Ferry}~~Senator David P. Hinkins proposes the following substitute bill:

DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: ~~{_____}~~David P. Hinkins

LONG TITLE

General Description:

This bill makes changes related to the authority and administration of the Department of Agriculture and Food.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the department to regulate animal enterprises and the use of working animals and, with certain exceptions, prohibits a political subdivision from regulating animal enterprises or the use of working animals;
- ▶ clarifies the ~~{Department of Agriculture and Food's}~~department's authority to award grants;
- ▶ allows the department to email certain registration renewal forms to a registrant

HB0423S02 compared with HB0423S01

- unless the registrant requests to receive the forms by mail;
- ▶ authorizes the department to use the Agriculture Resource Development Fund to make loans through a disaster relief program;
 - ▶ amends provisions related to the administration of the Utah Rural Rehabilitation Fund;
 - ▶ clarifies where the department will send a notice of brand renewal;
 - ▶ provides for an annual yearly brand inspection for rodeo stock;
 - ▶ clarifies the acceptable use of the Plant Pest Fund for certain administrative expenses;
 - ▶ changes the term "certificate of registration" to the term "license" throughout the Aquaculture Act;
 - ▶ amends provisions related to the use of the Agricultural Water Optimization Account; and
 - ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 4-2-103**, as last amended by Laws of Utah 2018, Chapter 200
- 4-14-103**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-18-106**, as last amended by Laws of Utah 2019, Chapter 178
- 4-18-108**, as last amended by Laws of Utah 2019, Chapter 178
- 4-19-105**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-24-202**, as last amended by Laws of Utah 2021, Chapter 295
- 4-24-306**, as last amended by Laws of Utah 2021, Chapter 295
- 4-24-308**, as last amended by Laws of Utah 2020, Chapter 311
- 4-35-106**, as last amended by Laws of Utah 2020, Chapter 326
- 4-37-109**, as last amended by Laws of Utah 2020, Chapter 154
- 4-37-110**, as last amended by Laws of Utah 2010, Chapter 378

HB0423S02 compared with HB0423S01

4-37-111, as last amended by Laws of Utah 2017, Chapter 412
4-37-201, as last amended by Laws of Utah 2017, Chapter 412
4-37-202, as last amended by Laws of Utah 2014, Chapter 189
4-37-203, as last amended by Laws of Utah 2017, Chapter 412
4-37-204, as last amended by Laws of Utah 2021, Chapter 295
4-37-301, as last amended by Laws of Utah 2017, Chapter 412
4-37-302, as last amended by Laws of Utah 2014, Chapter 189
4-37-303, as last amended by Laws of Utah 2010, Chapter 378
4-37-305, as last amended by Laws of Utah 2010, Chapter 378
4-37-401, as enacted by Laws of Utah 1994, Chapter 153
4-37-601, as enacted by Laws of Utah 1994, Chapter 153
4-37-602, as last amended by Laws of Utah 2010, Chapter 286
63I-1-273, as last amended by Laws of Utah 2021, Chapter 229
73-10g-204, as enacted by Laws of Utah 2018, Chapter 143

ENACTS:

4-2-103.5, Utah Code Annotated 1953

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

Section 1. Section 4-2-103 is amended to read:

4-2-103. Functions, powers, and duties of department -- Fees for services --

Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the

HB0423S02 compared with HB0423S01

control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) assist the Conservation Commission in the administration of Title 4, Chapter 18, Conservation Commission Act, and administer and disburse any funds available to assist conservation districts in the state in the conservation of the state's soil and water resources;

HB0423S02 compared with HB0423S01

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(r) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that all proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling its duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value

HB0423S02 compared with HB0423S01

of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies; ~~and~~

(d) accept and administer grants from the federal government and from other sources, public or private[-]; ~~and~~

(e) fund grants using money appropriated by the Legislature or money received from any other source.

Section 2. Section ~~{4-14-103}~~ 4-2-103.5 is ~~{amended}~~ enacted to read:

4-2-103.5. Regulation of animal enterprises and working animals.

(1) As used in this section:

(a) "Animal" means any nonhuman vertebrate life form.

(b) (i) "Animal enterprise" means a commercial or academic enterprise that produces or sells animals for profit, food or fiber production, agriculture, education, research, or testing.

(ii) "Animal enterprise" includes an animal competition, exposition, fair, farm, feedlot, furrier, ranch, rodeo, or an event intended to exhibit or advance agricultural arts and sciences.

(iii) "Animal enterprise" does not include an aquarium, circus, retail pet store, or zoo.

(c) "Political subdivision" means:

(i) a city, town, or metro township; or

(ii) a county, as it relates to the licensing and regulation of an animal enterprise or working animal in the unincorporated area of the county.

(d) "Working animal" means an animal used for performing a specific duty or function in commerce, including an animal used for entertainment, transportation, education, or exhibition.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may adopt rules establishing standards for the operation of an animal enterprise or the use of a working animal.

(3) A political subdivision may not adopt or enforce an ordinance or other regulation that prohibits or effectively prohibits the operation of an animal enterprise or the use of a working animal.

(4) Subsection (3) does not apply to an ordinance or other regulation adopted or

HB0423S02 compared with HB0423S01

enforced by a political subdivision if the ordinance or other regulation:

(a) enforces a state or federal law; or

(b) is a land use regulation as that term is defined in Section 10-9a-103 or 17-27a-103.

Section 3. Section 4-14-103 is amended to read:

4-14-103. Registration required for distribution -- Application -- Fees -- Renewal -- Local needs registration -- Distributor or applicator license -- Fees -- Renewal.

(1) (a) A person that is not registered with the department may not distribute a pesticide in this state.

(b) Application for registration shall be made to the department upon forms prescribed and furnished by the department accompanied with an annual registration fee determined by the department pursuant to Subsection 4-2-103(2) for each pesticide registered.

(c) Upon receipt by the department of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing distribution of the registered pesticide in this state through June 30 of each year, subject to suspension or revocation for cause.

(d) (i) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(ii) Each renewal fee shall be paid on or before June 30 of each year.

(2) The application shall include the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;

(b) the name of the pesticide;

(c) a complete copy of the label that will appear on the pesticide; and

(d) any information prescribed by rule of the department considered necessary for the safe and effective use of the pesticide.

(3) (a) [~~Forms~~] Except as provided in Subsection (3)(b), forms for the renewal of registration shall be [~~mailed~~] emailed to registrants at least 30 days before [~~their~~] the day on which the registrant's registration expires.

(b) If a registrant requests to receive forms for the renewal of registration by mail, the department shall mail the forms to the registrant at least 30 days before the day on which the

HB0423S02 compared with HB0423S01

registrant's registration expires.

~~(b)~~ (c) A registration in effect on June 30 for which a renewal application has been filed and the registration fee tendered shall continue in effect until the applicant is notified either that the registration is renewed or that the registration is suspended or revoked pursuant to Section 4-14-108.

(4) The department may, before approval of any registration, require the applicant to submit the complete formula of any pesticide, including active and inert ingredients, and may also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on which restrictions are being considered, require a complete description of all tests and test results that support the claims made by the applicant or the manufacturer of the pesticide.

(5) A registrant who desires to register a pesticide to meet special local needs according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and (2), satisfy the department that:

- (a) a special local need exists;
- (b) the pesticide warrants the claims made for the pesticide;
- (c) the pesticide, if used in accordance with commonly accepted practices, will not cause unreasonable adverse effects on the environment; and
- (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

(6) A registration is not required for a pesticide distributed in this state pursuant to an experimental use permit issued by the EPA or under Section 4-14-105.

(7) A pesticide dealer may not distribute a restricted use pesticide in this state without a license.

(8) A person shall receive a license before applying:

- (a) a restricted use pesticide; or
- (b) a general use pesticide for hire or in exchange for compensation.

(9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained by:

- (i) submitting an application on a form provided by the department;
- (ii) showing evidence of competence in the pesticide profession, as established by rule, and complying with the rules adopted by the department under this chapter;
- (iii) demonstrating good character;

HB0423S02 compared with HB0423S01

(iv) having no outstanding infractions and owing no money to the department; and
(v) paying the license fee determined by the department according to Subsection 4-2-103(2).

(b) A person may apply for a triennial license that expires on December 31 of the second calendar year after the calendar year in which the license is issued.

(c) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this title.

Section ~~(3)~~4. Section **4-18-106** is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Advisory board.

(1) As used in this section:

(a) "Disaster" means an extraordinary circumstance, including a flood, drought, or fire, that results in:

(i) the president of the United States declaring an emergency or major disaster in the state;

(ii) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(iii) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) "Local government" means the same as that term is defined in Section 53-2a-602.

~~(1)~~ (2) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

~~(2)~~ (3) The Agriculture Resource Development Fund shall consist of:

(a) money appropriated to ~~[it]~~ the fund by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

~~(3)~~ (4) The commission ~~[shall]~~ may make loans from the Agriculture Resource

HB0423S02 compared with HB0423S01

Development Fund for [a]:

- (a) a rangeland improvement and management project;
- (b) a watershed protection or flood prevention project;
- (c) a soil and water conservation project;
- (d) a program designed to promote energy efficient farming practices;
- (e) an improvement program for agriculture product storage or program designed to protect a crop or animal resource;
- (f) a hydroponic or aquaponic system; [or]
- (g) a project or program to improve water quality [or];
- (h) a project to address other environmental issues[-]; or
- (i) subject to Subsection (5), a disaster relief program designed to aid the sustainability of agriculture during and immediately following a disaster.

(5) (a) Loans made through a disaster relief program described in Subsection (4)(i) may not comprise more than 10% of the funds appropriated by the Legislature to the Agriculture Resource Development Fund.

(b) Notwithstanding Subsection (5)(a), the department may use all money appropriated to the Agriculture Resource Development Fund by the Legislature or another source, without limitation, if the money is appropriated specifically for use in a disaster relief program.

(c) (i) Until December 31, 2024, the department is authorized to borrow up to \$3,000,000 of General Fund appropriations from the Agricultural Water Optimization Account created in Section 73-10g-204 to be used in making loans through a disaster relief program described in Subsection (4)(i).

(ii) If the department borrows from the Agricultural Water Optimization Account under Subsection (5)(c)(i), the department shall deposit the repayment of principal and interest on loans made through a disaster relief program, regardless of the source of the funds used to make those loans, into the Agricultural Water Optimization Account, with preference over the repayment of any other source of funds, until the Agricultural Water Optimization Account is repaid in full.

~~(4)~~ (6) The commission may appoint an advisory board [~~that shall~~] to:

- (a) oversee the award process for loans, as described in this section;
- (b) approve loans; and

HB0423S02 compared with HB0423S01

(c) recommend policies and procedures for the Agriculture Resource Development Fund that are consistent with statute.

Section ~~4~~5. Section **4-18-108** is amended to read:

4-18-108. Grants for environmental improvement projects -- Criteria for award -- Duties of commission.

(1) The commission may make a grant from the Agriculture Resource Development Fund, or from funds appropriated by the federal government, Legislature, or another entity, to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

~~[(a) a purpose set forth under Subsection 4-18-106(3);]~~

~~[(b) the development or implementation of a coordinated resource management plan with a conservation district, as defined in Section 17D-3-102;]~~

~~[(c)]~~ (a) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board;

~~[(d)]~~ (b) the costs of plans or projects to improve manure management, control surface water runoff, or address other environmental issues on ~~[the]~~ a farm or ranch operation, including the costs of preparing or implementing a nutrient management plan; ~~[or]~~

~~[(e)]~~ (c) the improvement of water quality ~~[or]~~;

(d) the development of watershed plans; or

(e) a program to address other environmental issues.

~~[(2) The commission may make a grant for a purpose described in Subsection (1) from money appropriated by the Legislature for the purpose of awarding a grant under this section.]~~

~~[(3)]~~ (2) (a) In awarding a grant, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for the costs of proposed plans or projects;

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of a grant.

HB0423S02 compared with HB0423S01

~~[(4)]~~ (3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

~~[(5)]~~ (4) The commission may appoint an advisory board to:

- (a) assist with the grant process;
- (b) make recommendations to the commission regarding grants; and
- (c) establish policies and procedures for awarding loans or grants [~~from the Agricultural Resource Development Fund~~].

Section ~~{5}~~6. Section **4-19-105** is amended to read:

4-19-105. Utah Rural Rehabilitation Fund.

(1) The department shall deposit all income generated from the administration of the rural rehabilitation program in a separate fund known as the "Utah Rural Rehabilitation Fund."

(2) The [~~state treasurer~~] Division of Finance shall maintain the Utah Rural Rehabilitation Fund and record all debits and credits made to the fund by the department.

(3) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the Utah Rural Rehabilitation Fund into the fund.

Section ~~{6}~~7. Section **4-24-202** is amended to read:

4-24-202. Recordation of brand.

(1) (a) Application for a recorded brand shall be made to the department upon forms prescribed and furnished by the department.

(b) The application shall contain the [~~information the commissioner prescribes.~~] following information:

(i) the name of each applicant;

(ii) a single designated address where the department will send a notice of brand renewal; and

(iii) a description of the brand that is the subject of the application.

(c) An application may not be approved without payment of the appropriate recording fee.

(d) Upon receipt of a proper application, payment of the recording fee, and recordation of the brand in the central Brand Registry of the department, the commissioner shall issue the applicant a certified copy of recording that entitles the applicant to the exclusive use of the brand recorded.

HB0423S02 compared with HB0423S01

(2) (a) A recorded brand filed with the central Brand Registry expires during the calendar year 1980, and during each fifth year thereafter.

(b) (i) The department shall [~~give~~] send notice in writing to [~~all persons who are owners of recorded brands~~] the address designated under Subsection (1)(b)(ii) within a reasonable time before the date of expiration of recordation.

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

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

(c) Brand renewal is affected by filing an appropriate application with the department together with payment of the renewal fee.

(d) A recorded brand, not timely renewed, shall lapse and be removed from the central Brand Registry.

Section ~~{7}~~8. Section **4-24-306** is amended to read:

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

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

(2) Subsection (1) does not apply:

(a) if the animals specified in Subsection (1) customarily forage on an open range which transgresses the Utah state line and that of an adjoining state[-]; or

(b) to rodeo stock that have received a current yearly brand inspection.

(3) The owner or person responsible for driving or transporting the animals shall request the department to inspect the brands of the animals to be moved.

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

Section ~~{8}~~9. Section **4-24-308** is amended to read:

4-24-308. Brand inspection fees.

(1) The department with the approval of the Livestock Brand Board may set and collect a fee for the:

HB0423S02 compared with HB0423S01

(a) issuance of any certificate of brand inspection, including a yearly brand inspection of rodeo stock;

(b) verification of ownership at a custom exempt slaughter facility before slaughter for the owner's use;

(c) verification of ownership by a farm custom slaughter licensee before slaughter for the owner's use; or

(d) verification of ownership by a state or department employee at a meat establishment where there is no transfer of ownership.

(2) Brand inspection fees incurred for the inspection of such animals at a livestock market may be withheld by the market and paid from the proceeds derived from their sale.

(3) The fee shall be determined by the department pursuant to Subsection 4-2-103(2). Section ~~4-9-10~~ 10. Section **4-35-106** is amended to read:

4-35-106. Plant Pest Fund.

(1) There is created an expendable special revenue fund known as the "Plant Pest Fund."

(2) The fund is funded from:

(a) money the plant industry division within the department receives under this title;

(b) the landowner's and lessee's share of costs, if required by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) appropriations from the Legislature;

(d) federal money deposited into the fund; and

(e) the interest and earnings on the fund.

(3) The department may only use money in the fund to fund survey, detection, eradication, or suppression efforts for plant pests with the exception designated in Subsection (4).

(4) The department may annually use an amount not to exceed the lesser of the following [~~to carry out the department's duties under this chapter~~] for staff or administrative costs to carry out the department's duties under this chapter:

(a) 10% of the fund annually; or

(b) \$300,000.

(5) (a) The fund may not exceed \$10,000,000 of money deposited under Subsections

HB0423S02 compared with HB0423S01

(2)(a), (c), and (e).

(b) The Division of Finance shall transfer the money described in Subsection (5)(a) in excess of \$10,000,000 at the end of a fiscal year into the General Fund.

(6) Federal money deposited into the fund shall be accounted for separately.

(7) Fund money may be used as matching funds for participation in programs of the United States Department of Agriculture for survey, detection, eradication, or suppression efforts of plant pests.

Section ~~{10}~~11. Section **4-37-109** is amended to read:

4-37-109. Department to make rules.

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

(a) specifying procedures for the application and renewal of [~~certificates of registration~~] licenses for operating an aquaculture or fee fishing facility; and

(b) governing the disposal or removal of aquatic animals from an aquaculture or fee fishing facility for which the [~~certificate of registration~~] license has lapsed or been revoked.

(2) (a) The department may make other rules consistent with its responsibilities set forth in Section 4-37-104.

(b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall be consistent with the suggested procedures for the detection and identification of pathogens published by the American Fisheries Society's Fish Health Section.

Section ~~{11}~~12. Section **4-37-110** is amended to read:

4-37-110. Inspection of records and facilities.

(1) The following records and information shall be maintained by an aquaculture or fee fishing facility for a period of two years and shall be available for inspection by a department representative during reasonable hours:

(a) records of purchase, acquisition, distribution, and production histories of aquatic animals;

(b) [~~certificate of registration~~] a license; and

(c) valid identification of stocks, including origin of stocks.

(2) Department representatives may conduct pathological, fish culture, or physical investigations at any aquaculture, public aquaculture, or fee fishing facility during reasonable

HB0423S02 compared with HB0423S01

hours.

Section ~~{12}~~13. Section 4-37-111 is amended to read:

4-37-111. Prohibited sites.

(1) Except as provided in Subsection (2), an aquaculture facility or a fee fishing facility may not be developed on:

- (a) a natural lake;
- (b) a natural flowing stream; or
- (c) a reservoir constructed on a natural stream channel.

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

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

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

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

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

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

Section ~~{13}~~14. Section 4-37-201 is amended to read:

4-37-201. License required to operate an aquaculture facility.

(1) A person may not operate an aquaculture facility without first obtaining a [~~certificate of registration~~] license from the department.

(2) (a) Each application for a [~~certificate of registration~~] license to operate an aquaculture facility shall be accompanied by a fee.

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

HB0423S02 compared with HB0423S01

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

(a) on the suitability of the proposed site relative to potential impacts on adjacent wild aquatic animal populations; and

(b) in determining which species the holder of the [~~certificate of registration~~] license may propagate, possess, transport, or sell.

(4) The department shall list on the [~~certificate of registration~~] license the species which the holder may propagate, possess, transport, or sell.

Section ~~{14}~~ 15. Section **4-37-202** is amended to read:

4-37-202. Acquisition of aquatic animals for use in aquaculture facilities.

(1) Live aquatic animals intended for use in aquaculture facilities may be purchased or acquired only from:

(a) aquaculture facilities within the state that have a [~~certificate of registration~~] license and health approval number;

(b) public aquaculture facilities within the state that have a health approval number; or

(c) sources outside the state that are health approved as provided in Part 5, Health Approval.

(2) A person holding a [~~certificate of registration~~] license for an aquaculture facility shall submit annually to the department a record of each purchase of live aquatic animals and transfer of live aquatic animals into the facility. This record shall include the following information:

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

(b) date of transaction; and

(c) number and weight by species.

(3) The records required by Subsection (2) shall be submitted to the department before a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of registration~~] license is issued.

Section ~~{15}~~ 16. Section **4-37-203** is amended to read:

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

(1) Any person holding a [~~certificate of registration~~] license for an aquaculture facility may transport the live aquatic animals specified on the [~~certificate of registration~~] license to the facility or to any person who has been issued a [~~certificate of registration~~] license or who is

HB0423S02 compared with HB0423S01

otherwise authorized by law to possess those aquatic animals.

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

(a) name, address, [~~certificate of registration~~] license number, and health approval number of the source;

(b) number and weight being shipped, by species;

(c) name of the recipient;

(d) address of the destination; and

(e) (i) [~~certificate of registration~~] license number of the receiving facility; or

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

Section ~~4-16~~17. Section **4-37-204** is amended to read:

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

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

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

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

or

(ii) is eligible to receive the aquatic animal without a certificate of registration under Wildlife Board rules.

(c) A person who owns or operates an aquaculture facility may sell live aquatic animals if the person:

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

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

(iii) stocks the species and reproductive capability of aquatic animals authorized by the Wildlife Board in accordance with Section 23-15-10 for stocking in the area where the pond or

HB0423S02 compared with HB0423S01

holding facility is located.

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

(a) date of transaction;

(b) name, address, [~~certificate of registration~~] license number, and health approval number;

(c) number and weight of aquatic animal by:

- (i) species; and
- (ii) reproductive capability; and
- (d) name and address of the receiver.

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

(b) The report shall contain the following information:

- (i) name, address, and [~~certificate of registration~~] license number of the seller or supplier;
- (ii) number and weight of aquatic animals by species and reproductive capacity;
- (iii) date of sale or transfer; and
- (iv) name, address, phone number, and [~~certificate of registration~~] license number of the receiver.

(4) Geographic coordinates of the stocking location shall be provided if the receiver is eligible to stock the aquatic animal without a certificate of registration under Wildlife Board rules.

(5) A report required by Subsection (3) shall be submitted before:

(a) a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of registration~~] license is issued; or

(b) a health approval number is issued.

Section ~~{17}~~18. Section 4-37-301 is amended to read:

4-37-301. License required to operate a fee fishing facility.

HB0423S02 compared with HB0423S01

(1) A person may not operate a fee fishing facility without first obtaining a [~~certificate of registration~~] license from the department.

(2) (a) Each application for a [~~certificate of registration~~] license to operate a fee fishing facility shall be accompanied by a fee.

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

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

(a) on the suitability of the proposed site relative to potential impacts on adjacent wild aquatic animal populations; and

(b) in determining which species the holder of the [~~certificate of registration~~] license may possess or transport to or stock into the facility.

(4) The department shall list on the [~~certificate of registration~~] license the species which the holder may possess or transport to or stock into the facility.

(5) A person holding a [~~certificate of registration~~] license for an aquaculture facility may also operate a fee fishing facility without obtaining an additional [~~certificate of registration~~] license, if the fee fishing facility:

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

(b) contains only those aquatic animals specified on the [~~certificate of registration~~] license for the aquaculture facility; and

(c) is designated on the [~~certificate of registration~~] license for the aquaculture facility.

Section ~~{18}~~19. Section **4-37-302** is amended to read:

4-37-302. Acquisition of aquatic animals for use in fee fishing facilities.

(1) Live aquatic animals intended for use in fee fishing facilities may be purchased or acquired only from:

(a) aquaculture facilities within the state that have a [~~certificate of registration~~] license and health approval number;

(b) public aquaculture facilities within the state that have a health approval number; or

(c) sources outside the state that are health approved pursuant to Part 5, Health Approval.

(2) (a) A person holding a [~~certificate of registration~~] license for a fee fishing facility

HB0423S02 compared with HB0423S01

shall submit to the department an annual report of all live fish purchased or acquired.

(b) The report shall contain the following information:

(i) name, address, and [~~certificate of registration~~] license number of the seller or supplier;

(ii) number and weight by species;

(iii) date of purchase or transfer; and

(iv) name, address, and [~~certificate of registration~~] license number of the receiver.

(c) The report shall be submitted to the department before a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of registration~~] license is issued.

Section ~~19~~20. Section **4-37-303** is amended to read:

4-37-303. Transportation of live aquatic animals to fee fishing facilities.

(1) Any person holding a [~~certificate of registration~~] license for a fee fishing facility may transport the live aquatic animals specified on the [~~certificate of registration~~] license to the facility.

(2) Each transfer or shipment of live aquatic animals to a fee fishing facility within the state shall be accompanied by documentation of the source and destination of the fish, including:

(a) name, address, [~~certificate of registration~~] license number, and health approval number of the source;

(b) number and weight being shipped by species; and

(c) name, address, and [~~certificate of registration~~] license number of the destination.

Section ~~20~~21. Section **4-37-305** is amended to read:

4-37-305. Fishing license not required to fish at fee fishing facilities --

Transportation of dead fish.

(1) A fishing license is not required to take fish from fee fishing facilities.

(2) To transport dead fish from fee fishing facilities the fish shall be accompanied by the seller's receipt containing the following information:

(a) species and number of fish;

(b) date caught;

(c) [~~certificate of registration~~] license number of the fee fishing facility; and

(d) name, address, and telephone number of the seller.

HB0423S02 compared with HB0423S01

Section ~~{21}~~22. Section 4-37-401 is amended to read:

4-37-401. License required to import aquatic animals for aquaculture or fee fishing facilities.

(1) A person may not import aquatic animals classified as controlled species by rules of the Wildlife Board into the state for use in aquaculture or fee fishing facilities without first obtaining a [~~certificate of registration~~] license from the department.

(2) The department shall:

(a) coordinate with the Division of Wildlife Resources in determining which species the holder may import into the state; and

(b) specify those species on the [~~certificate of registration~~] license.

(3) A person may not import species into the state that are not listed on the [~~certificate of registration~~] license.

Section ~~{22}~~23. Section 4-37-601 is amended to read:

4-37-601. Enforcement and penalties.

(1) Any violation of this chapter is a class B misdemeanor and may be grounds for revocation of the [~~certificate of registration~~] license or denial of any future [~~certificate of registration~~] license as determined by the department.

(2) A violation of any rule made under this chapter may be grounds for revocation of the [~~certificate of registration~~] license or denial for future [~~certificate of registration~~] license as determined by the department.

Section ~~{23}~~24. Section 4-37-602 is amended to read:

4-37-602. Adjudicative proceedings -- Presiding officer.

(1) Adjudicative proceedings under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) The revocation of an aquaculture facility's [~~certificate of registration~~] license, the denial of an aquaculture facility's future [~~certificate of registration~~] license, and a denial or cancellation of an aquaculture facility's health approval number is a state agency action governed by Title 63G, Chapter 4, Administrative Procedures Act.

(3) (a) An owner or operator of an aquaculture facility may ask for an agency review, as provided by Section 63G-4-301, of an agency action specified in Subsection (2).

(b) The presiding officer, as defined in Section 63G-4-103, conducting the agency

HB0423S02 compared with HB0423S01

review shall consist of three members as follows:

(i) the person representing sport fishermen, appointed under Subsection 4-37-503(4)(a)(i)(C);

(ii) one person representing the aquaculture industry, appointed by the governor from names submitted by a nonprofit corporation, as defined in Section 16-6a-102, that promotes the efficient production, distribution, and marketing of aquaculture products and the welfare of all persons engaged in aquaculture; and

(iii) one person, appointed by the governor, who is knowledgeable about aquatic diseases and is employed by an institution of higher education.

(c) If the governor rejects all the names submitted under Subsection (3)(b)(ii), the recommending nonprofit corporation shall submit additional names.

(d) The final decision of the presiding officer shall be adopted upon approval of at least two of the members.

(e) The term for the member listed in Subsection (3)(b)(i) shall be the same as provided in Section 4-37-503.

(f) The term for the members appointed under Subsections (3)(b)(ii) and (iii) shall be four years.

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

(a) Section 63A-3-106;

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

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

Section ~~{24}~~25. Section **63I-1-273** is amended to read:

63I-1-273. Repeal dates, Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, [~~is repealed July 1, 2025.~~] on July 1, 2025:

(a) Section 73-10g-202 is repealed; and

(b) Section 73-10g-203 is repealed.

HB0423S02 compared with HB0423S01

(3) Section 73-18-3.5, which creates the Boating Advisory Council, is repealed July 1, 2024.

(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.

(5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

Section ~~{25}~~26. Section **73-10g-204** is amended to read:

73-10g-204. Agricultural Water Optimization Account.

(1) As used in this section:

(a) "Account" means the Agricultural Water Optimization Account created in Subsection (2).

(b) "Agricultural water optimization" means the implementation of agricultural and water management practices that maintain or increase viable agriculture while minimizing negative impacts on water supply, water quality, and the environment.

(c) "Department" means the Department of Agriculture and Food.

(2) There is created a restricted account within the General Fund called the Agricultural Water Optimization Account.

~~[(2)]~~ (3) The ~~[Agricultural Water Optimization Account]~~ account consists of:

(a) appropriations from the Legislature [and];

(b) federal funds; and

(c) grants or donations from other public or private sources.

~~[(3) The task force created in Section 73-10g-202 may, subject to appropriation, expend money in the Agricultural Water Optimization Account to fulfill the duties of Section 73-10g-203.]~~

(4) Subject to appropriation, the department may use money in the account to issue grants to improve agricultural water optimization.

(5) Until December 31, 2024, the department may loan up to \$3,000,000 of General Fund money in the account to the Agriculture Resource Development Fund, subject to the conditions described in Section 4-18-106.

HB0423S02 compared with HB0423S01

(6) (a) The department shall maintain the Agriculture Water Optimization Account and record all debits and credits made to the account by the department.

(b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the Agriculture Water Optimization Account into the account.

Section ~~26~~27. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.