

## SB0259S01 compared with SB0259

~~text~~ shows text that was in SB0259 but was deleted in SB0259S01.

text shows text that was not in SB0259 but was inserted into SB0259S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Carl R. Albrecht proposes the following substitute bill:

### DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Derrin R. Owens**

House Sponsor: Carl R. Albrecht

---

#### LONG TITLE

##### General Description:

This bill modifies provisions affecting the Department of Agriculture and Food.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses changes to the state veterinarian responsibilities;
- ▶ provides labeling requirements for pet treats;
- ▶ modifies labeling requirements for seed;
- ▶ creates ~~two~~a restricted ~~accounts~~account; and
- ▶ makes technical and conforming changes.

##### Money Appropriated in this Bill:

None

## SB0259S01 compared with SB0259

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

4-2-402, as last amended by Laws of Utah 2017, Chapter 345  
4-3-102, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-3-301, as last amended by Laws of Utah 2020, Chapter 422  
4-3-302, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-3-401, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-4-102, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-4-103, as last amended by Laws of Utah 2019, Chapter 138  
4-5-102, as last amended by Laws of Utah 2020, Chapter 311  
4-7-106, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-12-102, as renumbered and amended by Laws of Utah 2018, Chapter 355  
4-12-104, as renumbered and amended by Laws of Utah 2018, Chapter 355  
4-12-105, as renumbered and amended by Laws of Utah 2018, Chapter 355  
4-13-102, as last amended by Laws of Utah 2020, Chapter 311  
4-16-102, as last amended by Laws of Utah 2021, Chapter 153  
4-16-201, as last amended by Laws of Utah 2021, Chapter 153  
4-18-306, as last amended by Laws of Utah 2022, Chapter 274  
4-24-205, as last amended by Laws of Utah 2021, Chapter 295  
4-24-301, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-30-106, as last amended by Laws of Utah 2021, Chapters 84, 345

#### ENACTS:

4-12-105.5, Utah Code Annotated 1953

4-46-304, Utah Code Annotated 1953

~~4-46-305, Utah Code Annotated 1953~~

---

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

Section 1. Section 4-2-402 is amended to read:

**4-2-402. State veterinarian responsibilities.**

## SB0259S01 compared with SB0259

(1) The state veterinarian shall:

(a) coordinate the department's responsibilities for:

(i) the promotion of animal health; and

(ii) the diagnosis, surveillance, and prevention of animal disease[?];

(b) aid the meat inspection manager, whose duties are specified by the commissioner, in the direction of the inspection of meat and poultry; and

(c) perform other official duties assigned by the commissioner.

~~[(2) The state veterinarian may not receive compensation for services provided while engaging in the private practice of veterinary medicine.]~~

~~[(3)]~~ (2) The state veterinarian shall be a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 2. Section **4-3-102** is amended to read:

### **4-3-102. Definitions.**

As used in this chapter:

(1) "Adulterated" means any dairy product that:

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

(b) has been produced, prepared, packaged, or held:

(i) under unsanitary conditions;

(ii) where it may have become contaminated; or

(iii) where it may have become diseased or injurious to health;

(c) contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(d) contains:

(i) any filthy, putrid, or decomposed substance;

(ii) fresh fluid milk with a lactic acid level at or above .0018; or

(iii) cream with a lactic acid level at or above .008 or that is otherwise unfit for human food;

(e) is the product of:

(i) a diseased animal;

(ii) an animal that died otherwise than by slaughter; or

(iii) an animal fed upon uncooked offal;

## SB0259S01 compared with SB0259

(f) has intentionally been subjected to radiation, unless the use of the radiation is in conformity with a rule or exemption promulgated by the department; or

(g) (i) has any valuable constituent omitted or abstracted;

(ii) has any substance substituted in whole or in part;

(iii) has damage or inferiority concealed in any manner; or

(iv) has any substance added, mixed, or packed with the product to:

(A) increase its bulk or weight;

(B) reduce its quality or strength; or

(C) make it appear better or of greater value.

(2) "Certificate" means a document allowing a person to market milk.

~~[(2)]~~ (3) "Cow-share program" means a program in which a person acquires an undivided interest in a milk producing hoofed mammal through an agreement with a producer that includes:

(a) a bill of sale for an interest in the mammal;

(b) a boarding arrangement under which the person boards the mammal with the producer for the care and milking of the mammal and the boarding arrangement and bill of sale documents remain with the program operator;

(c) an arrangement under which the person receives raw milk for personal use not to be sold or distributed in a retail environment or for profit; and

(d) no more than two cows, 10 goats, and 10 sheep per farm in the program.

~~[(3)]~~ (4) "Dairy product" means any product derived from raw or pasteurized milk.

~~[(4)]~~ (5) "Distributor" means any person who distributes a dairy product.

~~[(5)]~~ (6) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed, evaporated, concentrated, powdered, dried, or desiccated, that has fat or oil other than milk fat added, blended, or compounded with it so that the resultant product is an imitation or semblance of milk, cream, or skimmed milk.

(b) "Filled milk" does not include any distinctive proprietary food compound:

(i) that is prepared and designated for feeding infants and young children, which is customarily used upon the order of a licensed physician;

(ii) whose product name and label does not contain the word "milk"; and

(iii) whose label conforms with the food labeling requirements.

## SB0259S01 compared with SB0259

~~[(6)]~~ (7) "Frozen dairy products" mean dairy products normally served to the consumer in a frozen or semifrozen state.

~~[(7)]~~ (8) "Grade A milk," "grade A milk products," and "milk" have the same meaning that is accorded the terms in the federal standards for grade A milk and grade A milk products unless modified by rules of the department.

~~[(8) "License" means a document allowing a person or plant to process, manufacture, supply, test, haul, or pasteurize milk or milk products or conduct other activity specified by the license.]~~

(9) "Manufacturer" means any person who processes milk in a way that changes the milk's character.

(10) "Manufacturing milk" means milk used in the production of non-grade A dairy products.

(11) "Misbranded" means:

(a) any dairy product whose label is false or misleading in any particular, or whose label or package fails to conform to any federal regulation adopted by the department that pertains to packaging and labeling;

(b) any dairy product in final packaged form manufactured in this state that does not bear:

(i) the manufacturer's, packer's, or distributor's name, address, and plant number, if applicable;

(ii) a clear statement of the product's common or usual name, quantity, and ingredients, if applicable; and

(iii) any other information required by rule of the department;

(c) any butter in consumer package form that is not at least B grade, or that does not meet the grade claimed on the package, measured by U.S.D.A. butter grade standards;

(d) any imitation butter made in whole or in part from material other than wholesome milk or cream, except clearly labeled "margarine";

(e) renovated butter unless the words "renovated butter," in letters not less than 1/2-inch in height appear on each package, roll, square, or container of such butter; or

(f) any dairy product in final packaged form that makes nutritional claims or adds or adjusts nutrients that are not so labeled.

## SB0259S01 compared with SB0259

(12) "Pasteurization" means any process that renders dairy products practically free of disease organisms and is accepted by federal standards.

(13) "Permit" ~~[or certificate" means a document allowing a person to market milk]~~  
means a document allowing a person or plant, as designated in the permit, to:

(a) process, manufacture, supply, test, haul, or pasteurize milk or milk products; or

(b) repair equipment used to conduct the activities described in Subsection (13)(a).

(14) "Plant" means any facility where milk is processed or manufactured.

(15) "Processor" means any person who subjects milk to a process.

(16) "Producer" means a person who owns a cow or other milk producing hoofed mammal that produces milk for consumption by persons other than the producer's family, employees, or nonpaying guests.

(17) "Raw milk" means unpasteurized milk.

(18) "Renovated butter" means butter that is reduced to a liquid state by melting and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product of milk.

(19) "Retailer" means any person who sells or distributes dairy products directly to the consumer.

Section 3. Section **4-3-301** is amended to read:

### **4-3-301. Permits or certificates -- Application -- Fee -- Expiration -- Renewal.**

(1) Application for a [~~license~~] permit to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products shall be made to the department upon forms prescribed and furnished by the department.

(2) Upon receipt of a proper application, compliance with the applicable rules, and payment of a [~~license~~] permit fee determined by the department according to Subsection 4-2-103(2), the commissioner, if satisfied that the public convenience and necessity and the industry will be served, shall issue an appropriate [~~license~~] permit to the applicant subject to suspension or revocation for cause.

(3) A [~~license~~] permit issued under this section expires at midnight on December 31 of each year.

(4) A [~~license~~] permit to operate a plant, manufacture butter or cheese, pasteurize milk,

## SB0259S01 compared with SB0259

test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is renewable for a period of one year upon the payment of an annual [~~license~~] permit renewal fee determined by the department according to Subsection 4-2-103(2) on or before December 31 of each year.

(5) Notwithstanding the requirements of Subsection (1), application for a permit or certificate to produce milk or a raw milk product, as that term is defined in Section 4-3-503, shall be made to the department on forms prescribed and furnished by the department.

(6) (a) Upon receipt of a proper application and compliance with applicable rules, the commissioner shall issue a permit entitling the applicant to engage in the business of producer, subject to suspension or revocation for cause.

(b) A fee may not be charged by the department for issuance of a [~~permit or~~] certificate.

Section 4. Section **4-3-302** is amended to read:

### **4-3-302. Permits and certificates -- Suspension or revocation -- Grounds.**

(1) The department may revoke or suspend the [~~license,~~] permit[;] or [~~certification~~] certificate of any person who violates this chapter or any rule enacted under the authority of this chapter.

(2) All or part of any [~~license,~~] permit[;] or [~~certification~~] ~~{permit or}~~ certificate may be suspended immediately if an emergency exists that presents a clear and present danger to the public health, or if inspection or sampling is refused.

Section 5. Section **4-3-401** is amended to read:

### **4-3-401. Unlawful acts specified.**

It is unlawful for any person in this state to:

- (1) operate a plant without a [~~license~~] permit issued by the department;
- (2) market milk without a [~~permit or~~] certificate issued by the department;
- (3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk in bulk without a special [~~license~~] permit to perform the particular activity designated in this Subsection (3); unless if more than one person working in a plant is engaged in the performance of a single activity designated in this Subsection (3), the person who directs the activity is [~~licensed~~] permitted;
- (4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or

## SB0259S01 compared with SB0259

misbranded dairy product;

(5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product without a [~~license,~~] permit[;] or certificate required by this chapter;

(6) sell or offer for sale any milk not intended for human consumption unless it is denatured or decharacterized in accordance with the rules of the department;

(7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a dairy product;

(8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious diseases communicable to humans in any place where they may come in contact with cows or other milking animals;

(9) draw milk for human food from cows or other milking animals that are infected with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that will produce milk that is adulterated;

(10) accept or process milk from any producer without verification that the producer holds a valid permit or certification or, if milk is accepted from out of the state, without verification that the producer holds a permit or certification from the appropriate regulatory agency of that state;

(11) use any contaminated or unclean equipment or container to process, manufacture, distribute, deliver, or sell a dairy product;

(12) remove, change, conceal, erase, or obliterate any mark or tag placed upon any equipment, tank, or container by the department except to clean and sanitize it;

(13) use any tank or container used for the transportation of milk or other dairy products that is unclean or contaminated;

(14) refuse to allow the department to take samples for testing; or

(15) prohibit adding vitamin compounds in the processing of milk and dairy products in accordance with rules of the department.

Section 6. Section **4-4-102** is amended to read:

**4-4-102. Department to establish egg grades and standards -- Authority to make and enforce rules.**

(1) The department [~~shall~~] may establish grades and standards of quality, size, and weight governing the sale of eggs.



## SB0259S01 compared with SB0259

(2) The department shall, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make and enforce rules that are necessary to administer and enforce this chapter.

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

### **4-4-103. Definitions.**

As used in this chapter:

- (1) "Addled" or "white rot" means putrid or rotten.
- (2) "Adherent yolk" means the yolk has settled to one side and become fastened to the shell.
- (3) "Albumen" means the white of an egg.
- (4) "Black rot" means the egg has deteriorated to such an extent that the whole interior presents a blackened appearance.
- (5) "Black spot" means mold or bacteria have developed in isolated areas inside the shell.
- (6) "Blood ring" means bacteria have developed to such an extent that blood is formed.
- (7) "Candling" means the act of determining the condition of an egg by holding it before a strong light in such a way that the light shines through the egg and reveals the egg's contents.
- (8) "End consumer" means a household consumer, restaurant, institution, or any other person who has purchased or received shell eggs for consumption.
- ~~[(8)]~~ (9) "Moldy" means mold spores have formed within the shell.
- ~~[(9)]~~ (10) "Shell egg" means an egg in the shell as distinguished from a dried or powdered egg.
- ~~[(10)]~~ (11) "Small producer" means a producer of shell eggs:
  - (a) having less than 3,000 layers;
  - (b) selling only to an ~~[ultimate]~~ end consumer; and
  - (c) who is exempt from 21 C.F.R. Chapter 1, Part 118, Production, Storage, and Transportation of Shell Eggs.
- ~~[(11)]~~ "~~Ultimate consumer" means a household consumer, restaurant, institution, or any other person who has purchased or received shell eggs for consumption.~~"

Section 8. Section **4-5-102** is amended to read:

## SB0259S01 compared with SB0259

### 4-5-102. Definitions.

As used in this chapter:

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

(2) (a) "Color additive":

(i) means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color; and

(ii) includes black, white, and intermediate grays.

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

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

(b) "Consumer commodity" does not include:

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

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

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

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

(v) a tobacco or tobacco product; or

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

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

(5) (a) "Farm" means an agricultural operation, under management by one entity, that grows or harvests crops.

(b) "Farm" does not include an entity that is exempt under 21 C.F.R. 112.4(a) or 21

## SB0259S01 compared with SB0259

C.F.R. 112.5.

(6) "Farmers market" means a market where a producer of a food product sells only a fresh, raw, whole, unprocessed, and unprepared food item directly to the final consumer.

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

(8) "Food" means:

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

(b) chewing gum or chewing gum components; or

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

(9) (a) "Food additive" means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.

(b) (i) "Food additive" includes a substance or source of radiation intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

(ii) "Food additive" does not include:

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

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

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

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

(b) "Food establishment" does not include:

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

## SB0259S01 compared with SB0259

(ii) a farmers market[-]; or

(iii) a food service establishment, as that term is defined in Section 26-15a-102.

(11) "Label" means a written, printed, or graphic display on the immediate container of an article of food.

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

(a) on an article of food or the article of food's container or wrapper; or

(b) accompanying the article of food.

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

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

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

(b) "Package" does not include:

(i) a package liner;

(ii) a shipping container or wrapping used solely for the transportation of a consumer commodity in bulk or in quantity to a manufacturer, packer, processor, or wholesale or retail distributor; or

(iii) a shipping container or outer wrapping used by a retailer to ship or deliver a consumer commodity to a retail customer, if the container and wrapping bear no printed information relating to the consumer commodity.

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

(i) to prevent, destroy, repel, or mitigate a pest, as defined under Section 4-14-102; or

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

(b) "Pesticide" does not include:

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

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

(16) "Principal display panel" means that part of a label that is most likely to be

## SB0259S01 compared with SB0259

displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(17) "Produce" means a food that is a:

(a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any seed source, peanut, tree nut, or herb; and

(b) raw agricultural commodity.

(18) "Raw agricultural commodity" means a food in the food's raw or natural state, including all fruits that are washed, colored, or otherwise treated in the fruit's unpeeled, natural form before marketing.

(19) "Registration" means the commissioner's issuance of a certificate to a qualified food establishment.

(20) "Sprout" means the shoot of a plant generally harvested when cotyledons are undeveloped or underdeveloped and mature leaves have not emerged.

Section 9. Section **4-7-106** is amended to read:

### **4-7-106. Licenses -- Applications.**

Application for an agent's or dealer's license shall be made to the department upon forms prescribed and furnished by the department, and the application shall state:

(1) the applicant's name, principal address in this state, and [~~date of birth~~] age;

(2) the applicant's principal address in any location outside Utah;

(3) the name and principal address of the person authorized by the applicant to accept service of process in this state on behalf of the applicant during the licensure period;

(4) the name and principal address of the applicant's surety if the application is for a dealer's license;

(5) a schedule of the commissions, fees, and other charges the applicant intends to collect for services during the period of licensure;

(6) the name and address of each principal the applicant intends to represent during the period of licensure; and

(7) any other information that the department may require by rule.

Section 10. Section **4-12-102** is amended to read:

### **4-12-102. Definitions.**

As used in this chapter:

## **SB0259S01 compared with SB0259**

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

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

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

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

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

(v) contains viable weed seeds in amounts exceeding limits established by rule of the department;

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

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

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

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

(2) (a) "Animal remedy" means a remedy that:

(i) is not used for food or cosmetic purposes; and

(ii) is prepared or compounded for animal use.

## SB0259S01 compared with SB0259

(b) "Animal remedy" does not mean:

(i) a material, other than food, that is intended to affect the structure or function of the body of a human; or

(ii) a product produced primarily as feed, to which medication is added at the time of manufacture as an additional ingredient.

~~[(2)]~~ (3) "Brand name" means one or more words, names, symbols, or devices that:

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

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

~~[(3)]~~ (4) (a) "Commercial feed" means all materials that are distributed for use as feed or for mixing in feed.

(b) "Commercial feed" does not include:

(i) unadulterated, whole, unmixed seeds;

(ii) unadulterated, physically altered, entire, unmixed seeds; ~~[or]~~

(iii) any unadulterated commodity that the department specifies by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances, unless the commodities, compounds, or substances are intermixed or mixed with other materials[-];

(iv) a live, whole, or unprocessed animal that is not:

(A) adulterated; or

(B) misbranded; or

(v) an animal remedy that is not:

(A) adulterated; or

(B) misbranded.

~~[(4)]~~ (5) "Contract feeder" means a person who:

(a) is an independent contractor; and

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

(i) is provided commercial feed;

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

(iii) receives remuneration that is calculated in whole or in part by feed consumption,

## SB0259S01 compared with SB0259

mortality, profit, product amount, or product quality.

~~[(5)]~~ (6) "Customer-formula feed" means commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

~~[(6)]~~ (7) "Distribute" means to:

- (a) offer for sale, sell, exchange, or barter commercial feed; or
- (b) supply, furnish, or otherwise provide commercial feed to a contract feeder.

~~[(7)]~~ (8) "Drug" means any article intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans; and

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

~~[(8)]~~ (9) "Feed ingredient" means each constituent material in a commercial feed.

(10) "Home-produced" means a pet treat produced in a private home kitchen in the state.

~~[(9)]~~ (11) "Label" means any written, printed, or graphic matter upon or accompanying a commercial feed.

~~[(10)]~~ (12) "Manufacture" means to grind, mix, blend, or otherwise process a commercial feed for distribution.

~~[(11)]~~ (13) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

~~[(12)]~~ (14) (a) "Misbranded" means any commercial feed, whether in a container or in bulk, that bears a label that:

- (i) is false or misleading in any particular; or
  - (ii) does not strictly conform to the labeling requirements of Section 4-12-105.
- (b) "Misbranded" includes commercial feed that is distributed under the name of another commercial feed.

~~[(13)]~~ (15) "Official sample" means a sample of commercial feed taken by the department in accordance with this chapter and designated as "official."

~~[(14)]~~ (16) "Percent" or "percentage" means percentage by weight.

~~[(15)]~~ (17) "Pet" means a domesticated dog or cat.

~~[(16)]~~ (18) "Pet food" means a commercial feed prepared and distributed for



## SB0259S01 compared with SB0259

consumption by a pet.

(19) (a) "Pet treat" means commercial feed intended for pets that:

(i) is not intended to provide complete and balanced nutrition; and

(ii) is fed intermittently for training, reward, enjoyment, or other purposes.

(20) "Pharmaceutical" means a product prescribed for the treatment or prevention of

disease for veterinary purposes, including:

(a) a vaccine;

(b) a synthetic or natural hormone;

(c) an anesthetic;

(d) a stimulant; or

(e) a depressant.

~~[(17)]~~ (21) "Product name" means the name of the commercial feed that:

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

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

name.

~~[(18)]~~ (22) "Quantity statement" means the net weight in mass, liquid measurement, or

count.

(23) "Remedy" means:

(a) a drug;

(b) a combination of drugs;

(c) a pharmaceutical;

(d) a proprietary medicine;

(e) a veterinary biologic; or

(f) a combination of drugs and other ingredients.

~~[(19)]~~ (24) "Specialty pet" means any animal normally maintained in a household for nonproduction purposes, including rodents, ornamental birds, ornamental fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits.

~~[(20)]~~ (25) "Specialty pet food" means a commercial feed prepared and distributed for consumption by a specialty pet.

~~[(21)]~~ (26) "Ton" means a net weight of 2,000 pounds avoirdupois.

(27) "Veterinary biologic" means a biologic product used for veterinary purposes.

## SB0259S01 compared with SB0259

including:

- (a) an antibiotic;
- (b) an antiparasiticide;
- (c) a growth promotant; or
- (d) a bioculture product.

Section 11. Section **4-12-104** is amended to read:

### **4-12-104. Distribution of commercial and customer-formula feed -- Registration or license required -- Application -- Fees -- Expiration -- Renewal.**

(1) A home-produced pet treat:

- (a) is exempt from Subsections (2), (4), (5)(a), and (6)(a); and
- (b) is required to comply with Section 4-12-105.5.

~~[(1)]~~ (2) (a) A person may not distribute a commercial feed in this state without a registration from the department.

(b) Except as provided by Subsection ~~[(3)(a)]~~ (4)(a), a person shall apply for a registration from the department for each brand name of commercial feed by:

- (i) submitting forms prescribed and furnished by the department; and
- (ii) paying an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2).

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

~~[(2)]~~ (3) (a) Subject to Subsection ~~[(2)(b);]~~ (3)(b) the department may:

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

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

- (i) be heard before the department; and
- (ii) amend the registrant's application in order to comply with the requirements of this

## SB0259S01 compared with SB0259

chapter.

~~[(3)]~~ (4) (a) A person who distributes customer-formula feed is not required to register the feed, but is required to obtain a license from the department before distribution.

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

(i) submitting forms prescribed and furnished by the department; and

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

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

~~[(4)]~~ (5) (a) Each commercial feed registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

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

~~[(5)]~~ (6) (a) Each customer-formula feed license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original license fee.

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

Section 12. Section **4-12-105** is amended to read:

**4-12-105. Labeling requirements for commercial and customer-formula feed specified.**

(1) A home-produced pet treat:

(a) is exempt from the provisions of this section, other than Subsection (3); and

(b) is required to comply with Section 4-12-105.5.

~~[(1)]~~ (2) Except for customer-formula feed, each container of commercial feed distributed in this state shall bear a label specifying:

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

(b) the product name and brand name, if any, under which the commercial feed is

## SB0259S01 compared with SB0259

distributed;

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

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

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

(ii) supporting claims made in the labeling;

(e) a quantity statement for the feed;

(f) the lot number or some other means of lot identification;

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

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

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

~~[(3)]~~ (4) (a) Except for customer-formula feed, each bulk shipment of commercial feed distributed in this state shall be accompanied by a printed or written statement specifying the information in Subsections ~~[(1)(a)]~~ (2)(a) through (h).

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

~~[(4)]~~ (5) Each container or bulk shipment of customer-formula feed distributed in this state shall be accompanied by a label, invoice, delivery slip, or other shipping document specifying:

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

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

(c) the date of delivery;

(d) the product name of each commercial feed;

(e) the quantity statement of each commercial feed;

(f) the net weight for each ingredient used that is not a commercial feed;

(g) except as provided in Subsection ~~[(5);~~ (6), the quantity statement of each ingredient used in the mixture, stated in terms the department determines necessary to advise

## SB0259S01 compared with SB0259

the user of the feed composition or to support claims made on the label;

- (h) directions for the feed's use;
- (i) precautionary statements, if applicable; and
- (j) any information considered necessary for the safe and effective use of the

customer-formula feed as prescribed by rule of the department.

~~[(5)]~~ (6) If the manufacturer of a customer-formula feed intends to protect a proprietary formula, the information required by Subsection ~~[(4)(g)]~~ (5)(g) may be substituted with a guaranteed analysis of each nutritional component the feed intends to deliver, stated in terms the department determines necessary to advise the user of the feed composition.

~~[(6)]~~ (7) If a customer-formula feed contains a drug, the label shall include the:

- (a) purpose of the medication;
- (b) established name of each active drug ingredient; and
- (c) amount of each drug included in the final mixture, expressed by weight, grams per ton, or milligrams per pound.

Section 13. Section 4-12-105.5 is enacted to read:

**4-12-105.5. Labeling and registration requirements for home-produced pet treats specified.**

(1) Each container of home-produced pet treats distributed in the state shall have a label specifying:

- (a) the name and principal mailing address of the manufacturer or registrant;
- (b) the text "Assorted Pet Treats" and the brand name, if any, under which the pet treat is distributed;

(c) the common name of each ingredient used in the pet treat, in descending order, by predominance based on weight;

- (d) a quantity statement for the treat;
- (e) adequate direction for the treat's safe and effective use, if necessary; and
- (f) precautionary statements, if necessary.

(2) (a) A home-produced pet treat:

- (i) shall be registered as an "Assorted Pet Treat";
- (ii) shall include a label with the registered name;
- (iii) may not be distributed outside of the state; and

## SB0259S01 compared with SB0259

(iv) is restricted to retail sales only.

(b) A registration described in Subsection (2)(a)(i) covers all versions of a home-produced pet treat.

Section 14. Section **4-13-102** is amended to read:

### **4-13-102. Definitions.**

As used in this chapter:

(1) "Adulterated fertilizer" means a fertilizer or soil amendment that:

(a) contains a deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with the directions for use on the label;

(b) has a composition that falls below or differs from that which the composition is purported to possess by the composition's labeling;

(c) contains unwanted crop or weed seed; or

(d) exceeds levels of metals permitted by the United States Environmental Protection Agency.

(2) "Beneficial substances or compounds" means a substance or compound other than primary, secondary, and micro plant nutrients that can be demonstrated by scientific research to be beneficial to one or more species of plants when applied exogenously.

(3) "Biostimulant" means a product containing naturally-occurring substances and microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce abiotic stress.

(4) "Blender" means a person engaged in the business of blending or mixing fertilizer, soil amendments, or both.

(5) "Brand" means a term, design, or trade mark used in connection with one or several grades of fertilizer or soil amendment.

(6) "Bulk fertilizer" means fertilizer delivered to the purchaser either in solid or liquid state in a non-packaged form to which a label cannot be attached.

(7) "Custom blend" means a fertilizer blended according to specification provided to a blender in a soil test nutrient recommendation or to meet the specific consumer request before blending.

(8) "Deficiency" means the amount of nutrient found by analysis to be less than that

## SB0259S01 compared with SB0259

guaranteed.

(9) "Derivation" means the source from which the guaranteed nutrients are derived.

(10) "Distribute" means to import, consign, manufacture, produce, compound, mix, blend, or to offer for sale, sell, barter, or supply fertilizer or soil amendments in the state.

(11) "Distributor" means a person who distributes.

(12) "Fertilizer" means a substance that contains one or more recognized plant nutrients that is used for the substance's plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule.

(13) "Fertilizer material" means a fertilizer that contains:

(a) quantities of no more than one of the primary plant nutrients, nitrogen (N), phosphate (P<sub>2</sub>O<sub>5</sub>), Potash (K<sub>2</sub>O);

(b) 85% plant nutrients in the form of a single chemical compound; or

(c) plant or animal residues or by-products, or a natural material deposit that is processed so that its primary plant nutrients have not been materially changed, except through purification and concentration.

(14) "Grade" means the percentage of total nitrogen, available phosphate and soluble potash stated [~~in whole numbers in the same terms, order, and percentages as in the guaranteed analysis if that specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as bone meal, manures, and similar raw materials may be guaranteed in fractional units~~] in the same terms, order, and percentages as in the guaranteed analysis.

(15) (a) "Guaranteed analysis" means the minimum percentage by weight of plant nutrients claimed in the following order and form: ~~{ }~~

Total Nitrogen (N) \_\_\_\_\_ percent

Available Phosphate (P<sub>2</sub>O<sub>5</sub>) \_\_\_\_\_ percent

Soluble Potash (K<sub>2</sub>O) \_\_\_\_\_ percent

(b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphate or degree of fineness may also be guaranteed.

## **SB0259S01 compared with SB0259**

(c) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rule of the department.

(ii) The guarantees for such other nutrients shall be expressed in the form of the element.

(iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label.

(iv) Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department.

(v) Any plant nutrients or other substances or compounds guaranteed are subject to inspection and analysis in accord with the methods and rules prescribed by the department.

(16) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer or soil amendment.

(17) "Label" means the display of the written, printed, or graphic matter upon the immediate container or statement accompanying a fertilizer or soil amendment.

(18) "Labeling" means the written, printed, or graphic matter upon or accompanying fertilizer or soil amendment, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of fertilizers or soil amendments.

(19) "Lot" means a definite quantity identified by a combination of numbers, letters, characters, or amount represented by a weight certificate from which every part is uniform within recognized tolerances from which the distributor can be determined.

(20) "Micro plant nutrient" means boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel, sodium, and zinc.

(21) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(22) "Nonplant food ingredient" means a substance or compound other than the primary, secondary, or micro nutrients.

(23) "Official sample" means a sample of fertilizer or soil amendment taken by the department and designated as "official."

(24) "Other ingredients" means the non-soil amending ingredients present in soil amendments.



## **SB0259S01 compared with SB0259**

(25) "Percent" or "percentage" means the percentage by weight.

(26) "Plant amendment" means a substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor, or other favorable characteristics of plants except fertilizer, soil amendments, agricultural liming materials, animal and vegetable manure, pesticides, or plant regulators.

(27) "Primary nutrient" includes total nitrogen, available phosphate, and soluble potash.

(28) "Registrant" means a person who registers a fertilizer or a soil amendment under this chapter.

(29) "Secondary nutrient" includes calcium, magnesium, and sulfur.

(30) "Slow release fertilizer" means a fertilizer in a form that releases, or converts to a plant-available form, plant nutrients at a slower rate relative to an appropriate reference soluble product.

(31) "Soil amending ingredient" means a substance that will improve the physical, chemical, biochemical, biological, or other characteristics of the soil.

(32) "Soil amendment" means a substance or a mixture of substances that is intended to improve the physical, chemical, biochemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, or pesticides.

(33) "Specialty fertilizer" means fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

(34) "Ton" means a net weight of 2,000 pounds avoirdupois.

Section 15. Section **4-16-102** is amended to read:

### **4-16-102. Definitions.**

As used in this chapter:

(1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or ground stock other than those on the label of a seed container, disseminated in any manner.

(2) "Agricultural seed" includes:

(a) grass, forage, cereal, oil, fiber, and other kinds of crop seed commonly recognized within this state as agricultural seed;

## SB0259S01 compared with SB0259

(b) lawn seed;

(c) combinations of the seed described in Subsections (2)(a) and (2)(b); and

(d) noxious weed seed, if the department determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that a noxious weed seed is being used as agricultural seed.

(3) "Blend" means seed consisting of more than one variety of a kind, each in excess of 5% by weight of the whole.

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

(a) identify the seed of one person; and

(b) distinguish the seed of one person from the seed of another person.

(5) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification.

(6) "Coated seed" means seed that has been covered by a layer of materials that obscure the original shape and size of the seed resulting in an increase of the weight of the seed.

~~[(6)]~~ (7) (a) "Complete record" means all information that relates to the [:] origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state.

~~[(i) origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state; or]~~

~~[(ii) treatment, germination, kind, and variety of each lot of vegetable or flower seed sold in this state.]~~

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

~~[(7)]~~ (8) "Conditioning" means drying, cleaning, scarifying, and other operations that:

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

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

## SB0259S01 compared with SB0259

~~[(8)]~~ (9) "Controlling the pollination" means to use a method of hybridization that will produce pure seed that is at least 75% hybrid seed.

~~[(9)]~~ (10) "Dormant" means viable seed, excluding hard seed, that fail to germinate when provided the specified germination conditions for the kind of seed in question.

~~[(10)]~~ (11) "Flower seed" includes the seed of herbaceous plants that are:

- (a) grown for their blooms, ornamental foliage, or other ornamental parts; and
- (b) commonly known and sold under the name of flower or wildflower seed in this state.

~~[(11)]~~ (12) "Foundation seed," "registered seed," or "certified seed" means seed that is produced and labeled in accordance with procedures officially recognized by a seed certifying agency approved and accredited in this state.

(13) "Genuine grower declaration" means a statement signed by a grower which, for each lot of seed, provides the:

- (a) lot number;
- (b) kind;
- (c) variety, if known;
- (d) origin;
- (e) weight;
- (f) year of production;
- (g) date of shipment; and
- (h) name of the person to whom the shipment was made.

~~[(12)]~~ (14) "Germination" means the emergence and development from the seed embryo of those essential structures that are, for the kind of seed in question, indicative of the ability to produce a normal plant under favorable conditions expressed in whole numbers.

~~[(13)]~~ (15) "Hard seed" means seed that remains hard at the end of the prescribed germination test period because the seed has not absorbed water due to an impermeable seed coat.

~~[(14)]~~ (16) (a) "Hybrid," applied to kinds or varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

- (i) two or more inbred lines;
- (ii) one inbred or a single cross with an open pollinated variety; or

## SB0259S01 compared with SB0259

(iii) two selected clones, seed lines, varieties, or species.

(b) The department shall treat hybrid designations as variety names.

~~[(15)]~~ (17) "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones, as determined by methods defined by rule.

~~[(16)]~~ (18) "Inoculant" means a commercial preparation containing nitrogen-fixing bacteria applied to seed.

~~[(17)]~~ (19) "Kind" means one or more related species or subspecies of seed that singly or collectively are known by one common name, for example, corn, oats, alfalfa, and timothy.

~~[(18)]~~ (20) (a) "Label" means any written, printed, or graphic representation accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.

(b) "Label" includes a representation on an invoice, bill, or letterhead.

~~[(19)]~~ (21) "Labeling" includes a tag or other device attached to, written, stamped, or printed on a container or accompanying a lot of bulk seeds that:

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

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

~~[(20)]~~ (22) "Lot" means a definite quantity of seed identified by a number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

~~[(21)]~~ (23) "Mixture" or "mix" or "mixed" means seed consisting of more than one kind, each in excess of 5% by weight of the whole.

~~[(22)]~~ (24) "Mulch" means a protective covering of a suitable substance placed with seed that:

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

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

(c) aids in the control of weeds; and

(d) aids in the prevention of erosion.

~~[(23)]~~ (25) "Noxious weed seeds" means:

(a) prohibited noxious weed seeds; or

(b) restricted noxious weed seeds.

## SB0259S01 compared with SB0259

~~[(24)]~~ (26) (a) "Off-type" means a seed or plant not part of the variety because the seed or plant deviates in one or more characteristics from the variety.

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

(i) is of another variety;

(ii) is not necessarily any variety;

(iii) results from cross-pollination by another kind or variety; or

(iv) results from uncontrolled self-pollination during production of hybrid seeds.

~~[(25)]~~ (27) "Origin" means:

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

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

~~[(26)]~~ (28) "Other crop seed" means the seed of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined by rule.

~~[(27)]~~ (29) "Person" means an individual, partnership, corporation, company, association, receiver, trustee, or agent.

~~[(28)]~~ (30) (a) "Prohibited noxious weed seeds" means those weed seeds determined by the commissioner that are prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed.

(b) "Prohibited noxious weed seeds" include the seeds of weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.

~~[(29)]~~ (31) "Pure seed" means seed exclusive of inert matter and all other seed not of the seed being considered as determined by methods defined by rule.

~~[(30)]~~ (32) "Restricted noxious weed seeds" means those weed seeds determined by the commissioner that:

(a) are objectionable in agricultural crops, lawns, and gardens of this state; and

(b) can be controlled by good cultural practices or the use of herbicides.

~~[(31)]~~ (33) "Seed for sprouting" means seed sold for sprouting for salad or culinary purposes.

~~[(32)]~~ (34) "Sowing" means the placement of agricultural seed, vegetable seed, flower seed, tree and shrub seed, or seed for sprouting in a selected environment for the purpose of obtaining plant growth.

## SB0259S01 compared with SB0259

~~[(33)]~~ (35) "Tetrazolium test (TZ)" means a biochemical seed viability test using the compound 2, 3, 5 triphenyl tetrazolium chloride (TTC), as specified in Part II, Tetrazolium Testing Handbook, Contribution Number 29, to the handbook on Seed Testing, prepared by the Tetrazolium subcommittee of the Association of Official Seed Analysts, 2008 Edition.

~~[(34)]~~ (36) "Total viable" is:

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

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

~~[(35)]~~ (37) "Treated" means that a seed has received an application of a substance or been subjected to a process ~~[about which a claim is made]~~ designed to reduce, control, or repel disease organisms, insects, or other pests that attack seeds or seedlings.

~~[(36)]~~ (38) "Tree and shrub seed" includes seed of woody plants commonly known and sold as tree and shrub seeds in this state.

~~[(37)]~~ (39) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

~~[(38)]~~ (40) (a) "Variant" means a seed or plant that:

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

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

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

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

~~[(39)]~~ (41) "Variety" means a subdivision of a kind that is:

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

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

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

## SB0259S01 compared with SB0259

~~[(40)]~~ (42) "Vegetable seed" includes the seed of those crops that are:

- (a) grown in gardens or on truck farms; and
- (b) generally known and sold under the name of vegetable or herb seed in this state.

~~[(41)]~~ (43) "Weed seed" means the seed of all plants generally recognized as weeds within this state, as determined by methods defined by rule.

~~[(42)]~~ (44) "Weight" means the net weight of the commodity.

(45) "Wholesaler" is a person who predominantly supplies seed to a distributor rather than a customer.

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

### **4-16-201. Labeling requirements.**

(1) A container of seed that is transported, sold, offered, or exposed for sale within this state shall bear on the container or have attached to the container a printed label that:

- (a) is in a conspicuous place;
- (b) is plainly written in the English language;
- (c) is in type no smaller than eight point;
- (d) specifies the information required by this chapter; and
- (e) does not modify or deny the information required by this chapter in the labeling or on another label attached to the container.

(2) A container of agricultural seed offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name of the kind and variety for each seed component in excess of 5% of the whole and the percentage by weight of each component in the order of its predominance in columnar form, provided that:

- (i) the label shall specify the name of the variety or state "Variety Not Stated" or "VNS," for any component that is required by rule of the department to be labeled as a variety;
- (ii) a hybrid shall be labeled as a hybrid;
- (iii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named; and
- (iv) the total of the percentages described in Subsections (2)(a), (2)(d), (2)(e), and (2)(f) shall equal 100%;

(b) name and address of the person who labeled the seed, or the person who sells,

## SB0259S01 compared with SB0259

offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) percentage by weight of all weed seeds;

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

(f) percentage by weight of inert matter;

(g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;

(h) origin, if known, of alfalfa, red clover, white clover, or field corn seed, except hybrid corn, and, if the origin is unknown, that fact shall be stated;

(i) month and year seed tests were conducted for each named agricultural seed, specifying:

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

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

(j) net weight or seed count.

(3) A container of lawn and turf seed or lawn and turf seed mixture offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name of the kind and variety for each lawn and turf seed component in excess of 5% of the whole, and the percentage by weight of each component in the order of its predominance in columnar form, provided that:

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

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

(iii) the total of the percentages described in Subsections (3)(a), (3)(d), (3)(e), and (3)(f) shall equal 100%;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) percentage by weight of all weed seeds;

(e) percentage by weight of agricultural or crop seeds other than those named on the



## SB0259S01 compared with SB0259

label pursuant to Subsection (3)(a);

(f) percentage by weight of inert matter;

(g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;

(h) month and year seed tests were conducted for each named lawn and turf seed, specifying:

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

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

(i) the word "mix," "mixture," or "blend," if more than one component is required to be named; and

(j) net weight or seed count.

(4) Vegetable seed in packets of one pound or less prepared for home gardens or household plantings or vegetable seed preplanted in containers, mats, tapes, or other planting devices shall be labeled with the following information:

(a) name of the kind and variety of seed, provided that a hybrid shall be labeled as a hybrid;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) (i) calendar month and year the germination test was completed and sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of test;

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

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

(d) seed with germination less than the germination standard last established for the seed by the department shall specify the:

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

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

(iii) words "Below Standard" in not less than eight-point type;

## SB0259S01 compared with SB0259

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

(f) lot number or other lot identification;

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

(h) net weight or seed count.

(5) Vegetable seed not described in Subsection (4) shall be labeled with the following information:

(a) name of each kind and variety present in excess of 5% of the whole and the percentage by weight of each in order of its predominance in columnar form, provided that a hybrid shall be labeled as a hybrid;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) month and year seed tests were conducted, for each named vegetable seed, specifying the:

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

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

(e) name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted;

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

(g) net weight or seed count.

(6) A flower seed packet of one pound or less prepared for use in home flower gardens or household plantings or flower seed in preplanted containers, mats, tapes, or other planting devices shall be labeled with the following information:

(a) name of the kind and variety or a statement of type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

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

## **SB0259S01 compared with SB0259**

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

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) (i) calendar month and year the germination test was completed and the sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of the test;

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

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

(d) seed with germination less than the germination standard last established by the department shall specify the:

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

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

(iii) words "Below Standard" in not less than eight-point type; and

(e) statement to indicate the minimum number of seeds or net weight in the container, if the seeds are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of seed without removing the seed.

(7) Flower seed not described in Subsection (6) offered or exposed for sale in this state shall be labeled with the following information:

(a) name of the kind and variety or statement of the type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

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

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

(b) genus and species of wildflower and the subspecies, if appropriate, of wildflower;

(c) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

## SB0259S01 compared with SB0259

- (d) lot number or other lot identification;
- (e) percentage of germination, exclusive of hard or dormant seed;
- (f) percentage of hard or dormant seed, if present;
- (g) calendar month and year that testing was completed to determine percentages described in Subsections (7)(e) and (7)(f);
- (h) net weight or seed count; and
- (i) wildflower seed with a pure seed percentage of less than 90% shall specify the percentage by weight of:
  - (i) each component listed in order of predominance;
  - (ii) weed seed if present; and
  - (iii) inert matter.
- (8) A container of tree and shrub seed that is sold, offered, or exposed for sale or transported for sowing into this state shall:
  - (a) bear a label as required by Subsection (1), unless:
    - (i) each bag or other container is clearly identified by a lot number stenciled on the container or the seed is in bulk; and
    - (ii) under a contractual agreement the seed may bear a label by invoice accompanying the shipment or an analysis tag attached to the invoice; and
  - (b) bear on the label the following information:
    - (i) name of the seed and name of the subspecies, if appropriate;
    - (ii) scientific name of the genus and species and scientific name of the subspecies, if appropriate;
    - (iii) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
    - (iv) lot number or other lot identification;
    - (v) information as to origin as follows:
      - (A) seed collected from a predominantly indigenous stand shall specify the area of collection given by latitude and longitude, geographic description, or political subdivision such as state or county; and
      - (B) seed collected from other than a predominantly indigenous stand shall specify identity of the area of collection and the origin of the stand or state "origin not indigenous";

## SB0259S01 compared with SB0259

(vi) elevation or the upper and lower limits of elevation within which the seed was collected;

(vii) purity as a percentage of pure seed by weight;

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

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

(x) calendar month and year the germination test was completed to determine percentages described in Subsections (8)(b)(viii) and (8)(b)(ix);

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

(xii) net weight.

(9) A container of seed for sprouting that is offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(b) name of the kind or kinds in order of predominance;

(c) lot number or other identification;

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

(e) percentage of germination of each pure seed component, exclusive of hard or dormant seed;

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

(g) calendar month and year the test was completed to determine percentages described in Subsections (9)(d) through (9)(f) or the year for which the seed was packaged;

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

(i) net weight or seed count.

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

(a) contain a minimum of 70% mulch;

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

(i) word "combination" shall be the largest and most conspicuous type on the container

## **SB0259S01 compared with SB0259**

and equal to or larger than the product name; and

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

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

(i) name of each kind and variety;

(ii) product name;

(iii) lot number;

(iv) percentage by weight of pure seed of each kind and variety named, including those less than 5% of the whole, provided that the total of the percentages described in Subsections (10)(c)(iv) through (10)(c)(vii) shall equal 100%;

(v) percentage by weight of other crop seed;

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

(vii) percentage by weight of weed seed;

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

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

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

(xi) date of germination test;

(xii) name and address of tagger; and

(xiii) net weight.

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

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

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

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

(b) an analysis label specifying the information listed in Subsection (10)(c) and the percentage by weight of the fertilizer, listed on a separate line as a component of the inert matter.

## **SB0259S01 compared with SB0259**

(12) Coated seed shall be labeled with the:

- (a) information required by Subsections (2)(a) through (2)(e) and (2)(g);
- (b) percentage by weight of pure seed exclusive of coating material;
- (c) percentage by weight of coating material;
- (d) percentage by weight of inert material exclusive of coating material; and
- (e) percentage of germination, determined on 400 pellets with or without seed.

Section 17. Section **4-18-306** is amended to read:

### **4-18-306. Soil Health Advisory Committee.**

(1) The Soil Health Advisory Committee is created under the commission.

(2) The Soil Health Advisory Committee shall assist the commission in administering the program.

(3) The Soil Health Advisory Committee shall maintain no less than seven members appointed by the commissioner.

(4) Soil Health Advisory Committee members shall include farmers, ranchers, or other agricultural producers of diverse production systems, including diversity in size, product, irrigated and dryland systems, and other production methods. Members may include:

- (a) an irrigated crop producer;
- (b) a dryland crop producer;
- (c) a dairyman or pasture producer;
- (d) a rancher;
- (e) a specialty crop or small farm producer;
- (f) a crop consultant;
- (g) a tribal representative;
- (h) a representative with expertise in soil health;
- (i) a committee member representative of the commission; or
- (j) a Utah Association of Conservation Districts representative.

(5) At least two members of the Soil Health Advisory Committee shall be water users who own, lease, or represent owners of adjudicated water rights used for agricultural purposes.

(6) Representation on the Soil Health Advisory Committee shall reflect the different geographic areas and demographic diversity of the state, to the greatest extent possible.

(7) (a) The commissioner shall appoint members of the Soil Health Advisory

## SB0259S01 compared with SB0259

Committee for [~~two~~] four year terms.

(b) Notwithstanding the requirements of Subsection (7)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of Soil Health Advisory Committee members are staggered so that approximately half of the committee is appointed every two years.

(c) An appointee to the Soil Health Advisory Committee may not serve more than two full terms.

(8) A Soil Health Advisory Committee member shall hold office until the expiration of the term for which the member is appointed or until a successor has been duly appointed.

(9) The commissioner may remove a member of the Soil Health Advisory Committee for cause.

(10) The Soil Health Advisory Committee may invite a representative of the Utah Association of Conservation Districts, the United States Department of Agriculture Natural Resources Conservation Service, Utah State University faculty member, the Department of Natural Resources, Division of Water Rights, and Division of Water Quality, to provide technical expertise to the Soil Health Advisory Committee on an as needed basis.

(11) The department will provide staff to manage the Soil Advisory Health Committee.

(12) The Soil Health Advisory Committee shall make recommendations to the commission concerning and assist in:

(a) setting program priorities;

(b) developing the development of guidelines for the implementation of the program, including guidelines and recommendations for the qualifications of nonprofit entities to receive grant money;

(c) soliciting input from similar stakeholders within each member's area of expertise and region of the state and communicate the Soil Health Advisory Committee's recommendations to the region and stakeholders represented by each member;

(d) soliciting input, in collaboration with the department, from underserved agricultural producers;

(e) soliciting input from producers that reflect the different geographic areas and demographic diversity of the state to the greatest extent possible;

(f) identifying key questions and areas of need to recommend for future research and



## SB0259S01 compared with SB0259

demonstration efforts;

(g) reviewing soil health grant proposals, including proposed budgets, proposed grant outcomes, and the qualifications of any nonprofits applying for grants;

(h) creating a screening and ranking system for proposals and proposing funding recommendations to the commission;

(i) reviewing agreements for cooperation or collaboration entered into by the department pursuant to Subsection 4-18-305(1)(f) and making recommendations to the commission for approval;

(j) reviewing and recommending soil health practices to ensure they support soil health;

(k) evaluating the results and effectiveness of soil health activities and the program in improving soil health; and

(l) recommending to the commission, ways to enhance statewide efforts to support healthy soils throughout the state.

(13) The Soil Health Advisory Committee shall meet at least quarterly. Meetings shall be conducted as required by Title 52, Chapter 4, Open and Public Meetings Act.

(14) 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 18. Section **4-24-205** is amended to read:

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

(1) (a) Subject to Subsections (1)(b) and (c), livestock may not forage upon an open range in this state or outside an enclosure unless the livestock bears a brand recorded in accordance with this chapter.

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

(c) Domesticated elk may not forage upon open range or outside an enclosure under

## SB0259S01 compared with SB0259

any circumstances as provided in Chapter 39, Domesticated Elk Act.

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

(b) Branding, upon change of ownership, is not required within the 30-day period for:

(i) unweaned calves;

(ii) registered or certified cattle;

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

(iv) dairy cattle held on farms.

(c) If the animal will be harvested within 60 days after the date of the sale or other transfer of ownership, no rebrand is required.

Section 19. Section **4-24-301** is amended to read:

**4-24-301. State may be divided into brand inspection districts -- Description filed with county clerk and sheriff.**

(1) The commissioner, to facilitate and improve brand inspection, may divide the state into brand inspection districts.

~~[(2) A description covering each district shall be filed by the department with each county clerk and county sheriff in the state.]~~

~~[(3)]~~ (2) District boundaries may be changed as considered necessary by the commissioner, with the approval of the Livestock Brand Board.

~~[(4)]~~ (3) Brand inspection stations within brand inspection districts may be located and established by the commissioner to assist in the enforcement of this chapter.

Section 20. Section **4-30-106** is amended to read:

**4-30-106. Hearing on license application -- Notice of hearing.**

(1) Upon the filing of an application, the department ~~[shall]~~ ~~+~~ may set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:

(a) each licensed livestock market operator within the state; and

(b) each livestock or other interested association or group of persons in the state that has filed written notice with the department requesting receipt of notice of such hearings.

## SB0259S01 compared with SB0259

(2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

(a) in a daily or weekly newspaper of general circulation within the city or town where the hearing is scheduled; and

(b) on the Utah Public Notice Website created in Section 63A-16-601.

Section 21. Section ~~4-46-304~~ is enacted to read:

~~{~~ ~~4-46-304. LeRay McAllister Critical Land Conservation Program Account.~~

~~\_\_\_\_\_ (1) There is created within the General Fund a restricted account known as the LeRay McAllister Critical Land Conservation Program Account.~~

~~\_\_\_\_\_ (2) The LeRay McAllister Critical Land Conservation Program Account consists of:~~

~~\_\_\_\_\_ (a) appropriations from the Legislature;~~

~~\_\_\_\_\_ (b) grants from private foundations;~~

~~\_\_\_\_\_ (c) grants from local governments, the state, or the federal government;~~

~~\_\_\_\_\_ (d) donations from landowners;~~

~~\_\_\_\_\_ (e) donations from any other person; and~~

~~\_\_\_\_\_ (f) interest on account money.~~

~~\_\_\_\_\_ (3) Upon appropriation by the Legislature, the Land Conservation Board created under Section 4-46-201 shall use money from the account to administer the LeRay McAllister Critical Land Conservation Program under Section 4-46-302.~~

~~\_\_\_\_\_ Section 22. Section ~~4-46-305~~ is enacted to read:~~

~~} ~~4-46-305~~; 4-46-304. Agriculture Conservation Easement Account.~~

~~(1) There is created within the General Fund a restricted account known as the Agriculture Conservation Easement Account.~~

~~(2) The Agriculture Conservation Easement Account consists of:~~

~~(a) conservation easement stewardship fees;~~

~~(b) grants from private foundations;~~

~~(c) grants from local governments, the state, or the federal government;~~

~~(d) grants from the Land Conservation Board created under Section 4-46-201;~~

~~(e) donations from landowners for monitoring and enforcing compliance with conservation easements;~~

~~(f) donations from any other person; and~~

~~(g) interest on account money.~~

## **SB0259S01 compared with SB0259**

(3) Upon appropriation by the Legislature, the department shall use money from the account to monitor and enforce compliance with conservation easements held by the department.

(4) The department may not receive or expend donations from the account to acquire conservation easements.