

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

AQUACULTURE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to aquaculture regulation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ changes the name of the Private Aquaculture Advisory Council to the Private Aquaculture Council;
- ▶ reduces council membership from 10 to five members;
- ▶ gives the council concurrent authority with the commissioner of the Department of Agriculture and Food on rules adopted pursuant to Subsection 4-37-109(1); and
- ▶ gives the council concurrent authority with the Wildlife Board on rules concerning the regulation of:

- private fish ponds;
- private stocking;
- short-term fishing events; and
- aquatic animal species authorized for importation or use in aquaculture facilities, fee fishing facilities, private fish ponds, short-term fishing events, and private stockings.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 4-37-103, as last amended by Laws of Utah 2017, Chapter 412
- 33 4-37-104, as last amended by Laws of Utah 2017, Chapter 412
- 34 4-37-105, as last amended by Laws of Utah 2017, Chapter 412
- 35 4-37-108, as last amended by Laws of Utah 2017, Chapter 412
- 36 4-37-109, as last amended by Laws of Utah 2017, Chapter 412
- 37 4-37-401, as enacted by Laws of Utah 1994, Chapter 153
- 38 4-37-402, as last amended by Laws of Utah 2010, Chapter 378
- 39 23-13-2, as last amended by Laws of Utah 2017, Chapter 412
- 40 23-14-2.8, as enacted by Laws of Utah 2017, Chapter 412
- 41 23-14-3, as last amended by Laws of Utah 2017, Chapter 412
- 42 23-15-10, as last amended by Laws of Utah 2017, Chapter 412
- 43 23-15-13, as last amended by Laws of Utah 1997, Chapter 82



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

46 Section 1. Section 4-37-103 is amended to read:

47 **4-37-103. Definitions.**

48 As used in this chapter:

- 49 (1) "Aquaculture" means the controlled cultivation of aquatic animals.
- 50 (2) (a) (i) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream
- 51 reservoir, or other structure used for aquaculture.
- 52 (ii) "Aquaculture facility" does not include any public aquaculture facility or fee fishing
- 53 facility.
- 54 (b) Structures that are separated by more than 1/2 mile, or structures that drain to or are
- 55 modified to drain to, different drainages, are considered separate aquaculture facilities
- 56 regardless of ownership.
- 57 (3) (a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean,
- 58 or amphibian.

59 (b) "Aquatic animal" includes a gamete of any species listed in Subsection (3)(a).

60 (4) "Concurrence" means the entities given rulemaking authority must jointly agree for
61 the action to be taken.

62 [~~4~~] (5) "Fee fishing facility" means a body of water used for holding or rearing fish
63 for the purpose of providing fishing for a fee or for pecuniary consideration or advantage.

64 [~~5~~] (6) "Natural flowing stream" means the same as that term is defined in Section
65 23-13-2.

66 [~~6~~] (7) "Natural lake" means the same as that term is defined in Section 23-13-2.

67 [~~7~~] (8) "Private fish pond" means the same as that term is defined in Section 23-13-2.

68 [~~8~~] (9) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream
69 reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S.
70 Fish and Wildlife Service, a mosquito abatement district, or an institution of higher education.

71 [~~9~~] (10) "Public fishery resource" means fish produced in public aquaculture facilities
72 and wild and free ranging populations of fish in the surface waters of the state.

73 [~~10~~] (11) "Reservoir constructed on a natural stream channel" means the same as that
74 term is defined in Section 23-13-2.

75 [~~11~~] (12) "Short-term fishing event" means the same as that term is defined in
76 Section 23-13-2.

77 Section 2. Section 4-37-104 is amended to read:

78 **4-37-104. Department's responsibilities.**

79 (1) The department is responsible for enforcing laws and rules made by the Wildlife
80 Board with concurrence by the Private Aquaculture Council pursuant to Section 23-14-2.8
81 governing species of aquatic animals which may be imported into the state or possessed or
82 transported within the state that are applicable to aquaculture or fee fishing facilities and the
83 promotion of the state's aquaculture industry.

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

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

88 (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to
89 be deposited in, or harvested from aquaculture or fee fishing facilities to wild aquatic animals,

90 other animals, and humans.

91 Section 3. Section 4-37-105 is amended to read:

92 **4-37-105. Responsibilities of Wildlife Board and Division of Wildlife Resources.**

93 (1) The Wildlife Board, with concurrence by the Private Aquaculture Council pursuant
94 to Section 23-14-2.8, and the Division of Wildlife Resources are responsible for determining
95 the species of aquatic animals which may be imported into, possessed, and transported within
96 the state.

97 (2) Subject to the policies and rules of the Fish Health Policy Board, the Wildlife
98 Board and the Division of Wildlife Resources shall:

99 (a) act to prevent the outbreak and act to control the spread of disease-causing
100 pathogens among aquatic animals in public aquaculture facilities; and

101 (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to
102 be deposited in, or harvested from public aquaculture facilities and private ponds to wild
103 aquatic animals, other animals, and humans.

104 Section 4. Section 4-37-108 is amended to read:

105 **4-37-108. Prohibited activities.**

106 (1) Except as provided in this chapter, in the rules of the department made pursuant to
107 Section 4-37-109, rules of the Fish Health Policy Board made pursuant to Section 4-37-503, or
108 in the rules of the Wildlife Board made with concurrence by the Private Aquaculture Council
109 pursuant to Section 23-14-2.8, governing species of aquatic animals which may be imported
110 into, possessed, transported, or released within the state, a person may not:

111 (a) acquire, import, or possess aquatic animals intended for use in an aquaculture or fee
112 fishing facility;

113 (b) transport aquatic animals to or from an aquaculture or fee fishing facility;

114 (c) stock or propagate aquatic animals in an aquaculture or fee fishing facility;

115 (d) harvest, transfer, or sell aquatic animals from an aquaculture or fee fishing facility;

116 or

117 (e) release aquatic animals into the waters of the state.

118 (2) If a person commits an act in violation of Subsection (1) and that same act
119 constitutes wanton destruction of protected wildlife as provided in Section 23-20-4, the person
120 is guilty of a violation of Section 23-20-4.

121 Section 5. Section **4-37-109** is amended to read:

122 **4-37-109. Department to make rules.**

123 (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
124 Administrative Rulemaking Act, and with concurrence by the Private Aquaculture Council
125 pursuant to Section 23-14-2.8:

126 (a) specifying procedures for the application and renewal of certificates of registration
127 for operating an aquaculture or fee fishing facility; and

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

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

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

135 ~~[(3) (a) The department shall consider the recommendations of the Private Aquaculture~~
136 ~~Advisory Council established in Section 23-14-2.8 when adopting rules under Subsection (1).]~~

137 ~~[(b) If the Private Aquaculture Advisory Council recommends a position or action to~~
138 ~~the department pursuant to Section 23-14-2.8 and the department rejects the recommendation,~~
139 ~~the department shall provide a written explanation to the council.]~~

140 Section 6. Section **4-37-401** is amended to read:

141 **4-37-401. Certificate of registration required to import aquatic animals for**
142 **aquaculture or fee fishing facilities.**

143 (1) A person may not import aquatic animals classified as controlled species by rules of
144 the Wildlife Board, made with concurrence by the Private Aquaculture Council pursuant to
145 Section 23-14-2.8, into the state for use in aquaculture or fee fishing facilities without first
146 obtaining a certificate of registration from the department.

147 (2) The department shall:

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

150 (b) specify those species on the certificate of registration.

151 (3) A person may not import species into the state that are not listed on the certificate

152 of registration.

153 Section 7. Section 4-37-402 is amended to read:

154 **4-37-402. Documentation required to import aquatic animals.**

155 Any aquatic animals classified as controlled species by rules of the Wildlife Board,
156 made with concurrence by the Private Aquaculture Council pursuant to Section 23-14-2.8, that
157 are imported into the state for use in aquaculture or fee fishing facilities shall be accompanied
158 by documentation indicating the following:

- 159 (1) the health approval number assigned by the department to the source facility;
- 160 (2) common or scientific names of the imported animals;
- 161 (3) name and address of the consignor and consignee;
- 162 (4) origin of shipment;
- 163 (5) final destination;
- 164 (6) number or pounds shipped;
- 165 (7) purpose for which shipped;
- 166 (8) method of transportation; and
- 167 (9) any other information required by the department.

168 Section 8. Section 23-13-2 is amended to read:

169 **23-13-2. Definitions.**

170 As used in this title:

- 171 (1) "Activity regulated under this title" means any act, attempted act, or activity
172 prohibited or regulated under any provision of Title 23, Wildlife Resources Code of Utah, or
173 the rules, and proclamations promulgated thereunder pertaining to protected wildlife including:
- 174 (a) fishing;
- 175 (b) hunting;
- 176 (c) trapping;
- 177 (d) taking;
- 178 (e) permitting any dog, falcon, or other domesticated animal to take;
- 179 (f) transporting;
- 180 (g) possessing;
- 181 (h) selling;
- 182 (i) wasting;

- 183 (j) importing;
- 184 (k) exporting;
- 185 (l) rearing;
- 186 (m) keeping;
- 187 (n) utilizing as a commercial venture; and
- 188 (o) releasing to the wild.
- 189 (2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.
- 190 (3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.
- 191 (4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or
- 192 amphibians.
- 193 (5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife
- 194 that one person may legally take during one day.
- 195 (6) "Big game" means species of hoofed protected wildlife.
- 196 (7) "Carcass" means the dead body of an animal or its parts.
- 197 (8) "Certificate of registration" means a document issued under this title, or any rule or
- 198 proclamation of the Wildlife Board granting authority to engage in activities not covered by a
- 199 license, permit, or tag.
- 200 (9) "Closed season" means the period of time during which the taking of protected
- 201 wildlife is prohibited.
- 202 (10) "Concurrence" means the entities given rulemaking authority must jointly agree
- 203 for the action to be taken.
- 204 [~~(10)~~] (11) "Conservation officer" means a full-time, permanent employee of the
- 205 Division of Wildlife Resources who is POST certified as a peace or a special function officer.
- 206 [~~(11)~~] (12) "Dedicated hunter program" means a program that provides:
- 207 (a) expanded hunting opportunities;
- 208 (b) opportunities to participate in projects that are beneficial to wildlife; and
- 209 (c) education in hunter ethics and wildlife management principles.
- 210 [~~(12)~~] (13) "Division" means the Division of Wildlife Resources.
- 211 [~~(13)~~] (14) (a) "Domicile" means the place:
- 212 (i) where an individual has a fixed permanent home and principal establishment;
- 213 (ii) to which the individual if absent, intends to return; and

214 (iii) in which the individual, and the individual's family voluntarily reside, not for a
215 special or temporary purpose, but with the intention of making a permanent home.

216 (b) To create a new domicile an individual shall:

217 (i) abandon the old domicile; and

218 (ii) be able to prove that a new domicile has been established.

219 ~~[(14)]~~ (15) "Endangered" means wildlife designated as endangered according to
220 Section 3 of the federal Endangered Species Act of 1973.

221 ~~[(15)]~~ (16) "Fee fishing facility" means the same as that term is defined in Section
222 4-37-103.

223 ~~[(16)]~~ (17) "Feral" means an animal that is normally domesticated but has reverted to
224 the wild.

225 ~~[(17)]~~ (18) "Fishing" means to take fish or crayfish by any means.

226 ~~[(18)]~~ (19) "Furbearer" means species of the Bassariscidae, Canidae, Felidae,
227 Mustelidae, and Castoridae families, except coyote and cougar.

228 ~~[(19)]~~ (20) "Game" means wildlife normally pursued, caught, or taken by sporting
229 means for human use.

230 ~~[(20)]~~ (21) "Guide" means a person who receives compensation or advertises services
231 for assisting another person to take protected wildlife, including the provision of food, shelter,
232 or transportation, or any combination of these.

233 ~~[(21)]~~ (22) "Guide's agent" means a person who is employed by a guide to assist
234 another person to take protected wildlife.

235 ~~[(22)]~~ (23) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by
236 any means.

237 ~~[(23)]~~ (24) "Intimidate or harass" means to physically interfere with or impede, hinder,
238 or diminish the efforts of an officer in the performance of the officer's duty.

239 ~~[(24)]~~ (25) (a) "Natural flowing stream" means a topographic low where water collects
240 and perennially or intermittently flows with a perceptible current in a channel formed
241 exclusively by forces of nature.

242 (b) "Natural flowing stream" includes perennial or intermittent water flows in a:

243 (i) realigned or modified channel that replaces the historic, natural flowing stream
244 channel; and

245 (ii) dredged natural flowing stream channel.

246 (c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or
247 other water delivery system that diverts and conveys water to an approved place of use
248 pursuant to a certificated water right.

249 ~~[(25)]~~ (26) (a) "Natural lake" means a perennial or intermittent body of water that
250 collects on the surface of the earth exclusively through the forces of nature and without human
251 assistance.

252 (b) "Natural lake" does not mean a lake where all surface water sources supplying the
253 body of water originate from groundwater springs no more than 100 yards upstream.

254 ~~[(26)]~~ (27) "Nonresident" means a person who does not qualify as a resident.

255 ~~[(27)]~~ (28) "Open season" means the period of time during which protected wildlife
256 may be legally taken.

257 ~~[(28)]~~ (29) "Pecuniary gain" means the acquisition of money or something of monetary
258 value.

259 ~~[(29)]~~ (30) "Permit" means a document, including a stamp, that grants authority to
260 engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

261 ~~[(30)]~~ (31) "Person" means an individual, association, partnership, government agency,
262 corporation, or an agent of the foregoing.

263 ~~[(31)]~~ (32) "Possession" means actual or constructive possession.

264 ~~[(32)]~~ (33) "Possession limit" means the number of bag limits one individual may
265 legally possess.

266 ~~[(33)]~~ (34) (a) "Private fish pond" means a pond, reservoir, or other body of water,
267 including a fish culture system, located on privately owned land where privately owned fish:

268 (i) are propagated or kept for a private noncommercial purpose; and

269 (ii) may be taken without a fishing license.

270 (b) "Private fish pond" does not include an aquaculture facility, fee fishing facility,
271 short-term fishing event, or private stocking.

272 ~~[(34)]~~ (35) (a) "Private stocking" means an authorized release of privately owned, live
273 fish in the waters of the state not eligible as a private fish pond under Section 23-15-10 or
274 aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

275 (b) Fish released under private stocking become the property of the state and subject to

276 the fishing regulations set forth in this title and the rules and proclamations of the Wildlife
277 Board, made with concurrence by the Private Aquaculture Council pursuant to Section
278 23-14-2.8.

279 ~~[(35)]~~ (36) "Private wildlife farm" means an enclosed place where privately owned
280 birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

- 281 (a) commingling with wild birds or furbearers; and
- 282 (b) escaping into the wild.

283 ~~[(36)]~~ (37) "Proclamation" means the publication used to convey a statute, rule, policy,
284 or pertinent information as it relates to wildlife.

285 ~~[(37)]~~ (38) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in
286 Subsection (3), except as provided in Subsection ~~[(37)]~~ (38)(b).

287 (b) "Protected aquatic wildlife" does not include aquatic insects.

288 ~~[(38)]~~ (39) (a) "Protected wildlife" means wildlife as defined in Subsection ~~[(54)]~~ (55),
289 except as provided in Subsection ~~[(38)]~~ (39)(b).

290 (b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel,
291 jack rabbit, muskrat, and raccoon.

292 ~~[(39)]~~ (40) "Released to the wild" means to be turned loose from confinement.

293 ~~[(40)]~~ (41) (a) "Reservoir constructed on a natural stream channel" means a body of
294 water collected and stored on the course of a natural flowing stream by impounding the stream
295 through excavation or diking.

296 (b) "Reservoir constructed on a natural stream channel" does not mean an
297 impoundment on a natural flowing stream where all surface water sources supplying the
298 impoundment originate from groundwater springs no more than 100 yards upstream.

299 ~~[(41)]~~ (42) (a) "Resident" means a person who:

- 300 (i) has been domiciled in the state for six consecutive months immediately preceding
- 301 the purchase of a license; and
- 302 (ii) does not claim residency for hunting, fishing, or trapping in any other state or
- 303 country.

304 (b) A Utah resident retains Utah residency if that person leaves this state:

- 305 (i) to serve in the armed forces of the United States or for religious or educational
- 306 purposes; and

- 307 (ii) the person complies with Subsection [~~(41)~~] (42)(a)(ii).
- 308 (c) (i) A member of the armed forces of the United States and dependents are residents
309 for the purposes of this chapter as of the date the member reports for duty under assigned
310 orders in the state if the member:
- 311 (A) is not on temporary duty in this state; and
312 (B) complies with Subsection [~~(41)~~] (42)(a)(ii).
- 313 (ii) A copy of the assignment orders shall be presented to a wildlife division office to
314 verify the member's qualification as a resident.
- 315 (d) A nonresident attending an institution of higher learning in this state as a full-time
316 student may qualify as a resident for purposes of this chapter if the student:
- 317 (i) has been present in this state for 60 consecutive days immediately preceding the
318 purchase of the license; and
319 (ii) complies with Subsection [~~(41)~~] (42)(a)(ii).
- 320 (e) A Utah resident license is invalid if a resident license for hunting, fishing, or
321 trapping is purchased in any other state or country.
- 322 (f) An absentee landowner paying property tax on land in Utah does not qualify as a
323 resident.
- 324 [~~(42)~~] (43) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the
325 act of selling, bartering, exchanging, or trading.
- 326 [~~(43)~~] (44) (a) "Short-term fishing event" means any event where privately acquired
327 fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing
328 or recreational opportunity and where no fee is charged as a requirement to fish.
- 329 (b) A fishing license is not required to take fish at a short-term fishing event.
- 330 [~~(44)~~] (45) "Small game" means species of protected wildlife:
- 331 (a) commonly pursued for sporting purposes; and
332 (b) not classified as big game, aquatic wildlife, or furbearers and excluding turkey,
333 cougar, and bear.
- 334 [~~(45)~~] (46) "Spoiled" means impairment of the flesh of wildlife which renders it unfit
335 for human consumption.
- 336 [~~(46)~~] (47) "Spotlighting" means throwing or casting the rays of any spotlight,
337 headlight, or other artificial light on any highway or in any field, woodland, or forest while

338 having in possession a weapon by which protected wildlife may be killed.

339 [(47)] (48) "Tag" means a card, label, or other identification device issued for
340 attachment to the carcass of protected wildlife.

341 [(48)] (49) "Take" means to:

342 (a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected
343 wildlife; or

344 (b) attempt any action referred to in Subsection [(48)] (49)(a).

345 [(49)] (50) "Threatened" means wildlife designated as such pursuant to Section 3 of the
346 federal Endangered Species Act of 1973.

347 [(50)] (51) "Trapping" means taking protected wildlife with a trapping device.

348 [(51)] (52) "Trophy animal" means an animal described as follows:

349 (a) deer - a buck with an outside antler measurement of 24 inches or greater;

350 (b) elk - a bull with six points on at least one side;

351 (c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

352 (d) moose - a bull with at least one antler exceeding five inches in length;

353 (e) mountain goat - a male or female;

354 (f) pronghorn antelope - a buck with horns exceeding 14 inches; or

355 (g) bison - a bull.

356 [(52)] (53) "Waste" means to abandon protected wildlife or to allow protected wildlife
357 to spoil or to be used in a manner not normally associated with its beneficial use.

358 [(53)] (54) "Water pollution" means the introduction of matter or thermal energy to
359 waters within this state that:

360 (a) exceeds state water quality standards; or

361 (b) could be harmful to protected wildlife.

362 [(54)] (55) "Wildlife" means:

363 (a) crustaceans, including brine shrimp and crayfish;

364 (b) mollusks; and

365 (c) vertebrate animals living in nature, except feral animals.

366 Section 9. Section 23-14-2.8 is amended to read:

367 **23-14-2.8. Private Aquaculture Council.**

368 ~~[(1) The executive director of the department may establish a Private Aquaculture~~

369 ~~Advisory Council to give advice and make recommendations to the:]~~

370 (1) There is created within the division a Private Aquaculture Council.

371 (2) (a) The council shall in accordance with Title 63G, Chapter 3, Utah Administrative
372 Rulemaking Act, make rules subject to concurrence by the:

373 ~~[(a)]~~ (i) commissioner of the Department of Agriculture and Food on rules adopted
374 under Subsection ~~4-37-109~~(1); and

375 ~~[(b)]~~ (ii) Wildlife Board ~~[on rules adopted]~~ concerning the regulation of:

376 ~~[(i)]~~ (A) private fish ponds;

377 ~~[(ii)]~~ (B) private stocking;

378 ~~[(iii)]~~ (C) short-term fishing events; and

379 ~~[(iv)]~~ (D) aquatic animal species authorized for importation or use in aquaculture
380 facilities, fee fishing facilities, private fish ponds, short-term fishing events, and private
381 stocking.

382 (b) The council shall advise the director on matters affecting the division budget.

383 (3) If concurrence between the commissioner and the council or between the Wildlife
384 Board and the council is required:

385 (a) the commissioner or the Wildlife Board shall report to and update the council on
386 matters requiring concurrence; and

387 (b) the council shall review the report submitted by the commissioner or the Wildlife
388 Board under this Subsection (3) and concur with the report, or:

389 (i) provide a reason for not concurring with the report; or

390 (ii) provide recommendations to the commissioner or the Wildlife Board.

391 (4) If no concurrence can be reached between the commissioner and the council or the
392 Wildlife Board and the council, the commissioner or the Wildlife Board has final authority.

393 ~~[(2)]~~ (5) The ~~[advisory]~~ council shall consist of ~~[10]~~ five members appointed to
394 four-year terms by the governor, in consultation with the executive director of the department,
395 the commissioner of the Department of Agriculture and Food, and the director of the division,
396 as follows:

397 ~~[(a) two members representing the division selected from four or more names~~
398 ~~submitted by the director of the division;]~~

399 ~~[(b) two members representing the Department of Agriculture and Food selected from~~

400 ~~four or more names submitted by the commissioner of the Department of Agriculture and~~
401 ~~Food;]~~

402 ~~[(e)]~~ (a) one member representing angling interests selected from two or more names
403 submitted by a nonprofit corporation that promotes sport fishing;

404 ~~[(d)]~~ (b) two members representing the private aquaculture industry selected from four
405 or more names submitted by a nonprofit corporation that promotes the aquaculture industry;
406 and

407 ~~[(e) three]~~ (c) two members representing private ponds or fee fishing facilities selected
408 from six or more names submitted by a nonprofit corporation that promotes the aquaculture
409 industry.

410 ~~[(3)]~~ (6) Notwithstanding the requirements of Subsection ~~[(2)]~~ (5), the governor shall,
411 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
412 of [advisory] council members are staggered so that approximately half of the [advisory]
413 council is appointed every two years.

414 ~~[(4)]~~ (7) When a vacancy occurs in the membership for any reason, the replacement
415 shall be appointed for the unexpired term.

416 ~~[(5)]~~ (8) (a) ~~[Six]~~ Three members of the [advisory] council shall constitute a quorum.

417 (b) A quorum is necessary for the [advisory] council to act.

418 (c) ~~[Advisory council]~~ Council administrative rule recommendations to the
419 commissioner and Wildlife Board pursuant to Subsection ~~[(1)]~~ (2) shall be supported by
420 majority vote.

421 (d) The [advisory] council shall elect a chair and vice chair from the [advisory]
422 council's membership.

423 (e) The [advisory] council shall determine:

424 (i) the time and place of meetings, not to exceed four meetings per calendar year; and

425 (ii) other procedural matters not specified in this Subsection ~~[(5)]~~ (8).

426 ~~[(6)]~~ (9) A member may not receive compensation or benefits for the member's service,
427 but may receive per diem and travel expenses in accordance with:

428 (a) Section [63A-3-106](#);

429 (b) Section [63A-3-107](#); and

430 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

431 63A-3-107.

432 Section 10. Section 23-14-3 is amended to read:

433 **23-14-3. Powers of division to determine facts -- Policymaking powers of Wildlife**
434 **Board.**

435 (1) The Division of Wildlife Resources may determine the facts relevant to the wildlife
436 resources of this state.

437 (2) (a) Upon a determination of these facts, the Wildlife Board, subject to concurrence
438 as described in Section 23-14-2.8, shall establish the policies best designed to accomplish the
439 purposes and fulfill the intent of all laws pertaining to wildlife and the preservation, protection,
440 conservation, perpetuation, introduction, and management of wildlife.

441 (b) In establishing policy, the Wildlife Board shall:

442 (i) recognize that wildlife and its habitat are an essential part of a healthy, productive
443 environment;

444 (ii) recognize the impact of wildlife on man, his economic activities, private property
445 rights, and local economies;

446 (iii) seek to balance the habitat requirements of wildlife with the social and economic
447 activities of man;

448 (iv) recognize the social and economic values of wildlife, including fishing, hunting,
449 and other uses; and

450 (v) seek to maintain wildlife on a sustainable basis.

451 (c) (i) The Wildlife Board shall consider the recommendations of the regional advisory
452 councils established in Section 23-14-2.6 [~~and the Private Aquaculture Advisory Council~~
453 ~~established in Section 23-14-2.8~~].

454 (ii) If a regional advisory council [~~or the Private Aquaculture Advisory Council~~]
455 recommends a position or action to the Wildlife Board, and the Wildlife Board rejects the
456 recommendation, the Wildlife Board shall provide a written explanation to the advisory council
457 recommending the opposing position.

458 (3) No authority conferred upon the Wildlife Board by this title shall supersede the
459 administrative authority of the executive director of the Department of Natural Resources or
460 the director of the Division of Wildlife Resources.

461 Section 11. Section 23-15-10 is amended to read:

462 **23-15-10. Private fish pond.**

463 (1) A private fish pond is not required to obtain a certificate of registration from the
464 division to receive fish from an aquaculture facility if:

- 465 (a) the pond is properly screened as provided in Subsection (3)(c); and
- 466 (b) the fish species being stocked is authorized by this chapter or rules of the Wildlife
467 Board made with concurrence by the Private Aquaculture Council pursuant to Section
468 23-14-2.8.

469 (2) (a) Except as provided in Subsection (2)(b), a private fish pond or a short-term
470 fishing event may not be developed or held on:

- 471 (i) a natural lake;
- 472 (ii) a natural flowing stream; or
- 473 (iii) a reservoir constructed on a natural stream channel.

474 (b) The division may authorize a private fish pond on a natural lake or reservoir
475 constructed on a natural stream channel upon inspecting and determining:

476 (i) the pond and inlet source of the pond neither contain wild game fish nor are likely
477 to support such species in the future;

478 (ii) the pond and the pond's intended use will not jeopardize conservation of aquatic
479 wildlife populations or lead to the privatization or commercialization of aquatic wildlife;

480 (iii) the pond is properly screened as provided in Subsection (3)(c) and otherwise in
481 compliance with the requirements of this title, rules of the Wildlife Board made with
482 concurrence by the Private Aquaculture Council pursuant to Section 23-14-2.8, and applicable
483 law; and

484 (iv) the pond is not vulnerable to flood or high water events capable of compromising
485 the pond's inlet or outlet screens allowing escapement of privately owned fish into waters of the
486 state.

487 (c) Any authorization issued by the division under Subsection (2)(b) shall be in the
488 form of a certificate of registration.

489 (3) A person who owns or operates a private fish pond may receive a fish from an
490 aquaculture facility if:

- 491 (a) the aquaculture facility has a health approval number required by Section 4-37-501;
- 492 (b) the species, strain, and reproductive capability of the fish is authorized by the

493 Wildlife Board in accordance with Subsection (4) for stocking in the area where the private fish
494 pond is located;

495 (c) the private fish pond is screened in accordance with the Wildlife Board's rule, made
496 with concurrence by the Private Aquaculture Council pursuant to Section 23-14-2.8, to prevent
497 the fish from moving into or out of the private fish pond;

498 (d) the fish is not:

499 (i) released from the private fish pond; or

500 (ii) transported live to another location; and

501 (e) the person provides the aquaculture facility with a signed statement that the private
502 fish pond is in compliance with this section.

503 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
504 Wildlife Board, with concurrence by the Private Aquaculture Council pursuant to Section
505 23-14-2.8, may make rules that:

506 (a) specify the screen requirements to prevent the movement of fish into or out of the
507 private fish pond;

508 (b) specify the fish species that may not be stocked in a private fish pond located in the
509 state;

510 (c) establish a location or region where a specified species, strain, and reproductive
511 capability of fish may be stocked in a private fish pond; and

512 (d) specify procedures and requirements for authorizing development of a private fish
513 pond, fee fishing facility, or aquaculture facility on a natural lake, natural flowing stream, or
514 reservoir on a natural stream channel pursuant to Subsection (2) and Section 4-37-111.

515 (5) The division may inspect a private fish pond to verify compliance with this section
516 and rules of the Wildlife Board made with concurrence by the Private Aquaculture Council
517 pursuant to Section 23-14-2.8.

518 Section 12. Section 23-15-13 is amended to read:

519 **23-15-13. Operation of aquaculture and fee fishing facilities.**

520 A person may engage in the following activities as provided by Title 4, Chapter 37,
521 Aquaculture Act, and rules adopted under that chapter by the Department of Agriculture and
522 Food and Wildlife Board with concurrence by the Private Aquaculture Council if required by
523 this title:

524 (1) acquisition, importation, or possession of aquatic animals intended for use in an
525 aquaculture or fee fishing facility;

526 (2) transportation of aquatic animals to or from an aquaculture facility or to a fee
527 fishing facility;

528 (3) stocking or propagation of aquatic animals in an aquaculture or fee fishing facility;
529 and

530 (4) harvest, transfer, or sale of aquatic animals from an aquaculture or fee fishing
531 facility.

Legislative Review Note
Office of Legislative Research and General Counsel