

AGRICULTURE MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Agriculture code.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ states that the Department of Agriculture and Food may contract for services and accept and administer grants;
- ▶ modifies the duties of the state veterinarian;
- ▶ states that the Department of Agriculture and Food may require labels on certain products;
- ▶ states that the Department of Agriculture and Food may make rules in regard to "Utah's Own," a program dedicated to the promotion of locally produced products of agriculture;
- ▶ modifies the labeling requirements for commercial feed;
- ▶ authorizes the Department of Agriculture and Food to deny, revoke, or suspend a pesticide applicator license;
- ▶ modifies the membership of the State Weed Committee;
- ▶ authorizes the Agricultural Advisory Board to create a subcommittee;
- ▶ modifies the length of time a domesticated elk facility shall maintain records;
- ▶ authorizes the Department of Agriculture and Food to set a fee for the application of



28 an industrial hemp certificate; and
29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 4-5-2, as last amended by Laws of Utah 2007, Chapter 146
- 37 4-8-4, as last amended by Laws of Utah 2010, Chapter 324
- 38 4-11-2, as last amended by Laws of Utah 2014, Chapter 411
- 39 4-11-4, as last amended by Laws of Utah 2010, Chapter 73
- 40 4-11-13, as last amended by Laws of Utah 2010, Chapter 73
- 41 4-12-2, as last amended by Laws of Utah 2007, Chapter 179
- 42 4-12-3, as last amended by Laws of Utah 2008, Chapter 382
- 43 4-12-4, as last amended by Laws of Utah 1985, Chapter 130
- 44 4-12-5, as last amended by Laws of Utah 2007, Chapter 179
- 45 4-12-6, as enacted by Laws of Utah 1979, Chapter 2
- 46 4-12-7, as enacted by Laws of Utah 1979, Chapter 2
- 47 4-12-8, as enacted by Laws of Utah 1979, Chapter 2
- 48 4-14-8, as enacted by Laws of Utah 1979, Chapter 2
- 49 4-18-105, as last amended by Laws of Utah 2016, Chapter 19
- 50 4-19-3, as last amended by Laws of Utah 2007, Chapter 179
- 51 4-23-3, as last amended by Laws of Utah 1989, Chapter 109
- 52 4-24-2, as last amended by Laws of Utah 2010, Chapter 378
- 53 4-24-11, as last amended by Laws of Utah 1997, Chapter 302
- 54 4-24-17, as last amended by Laws of Utah 1997, Chapter 302
- 55 4-31-111, as renumbered and amended by Laws of Utah 2012, Chapter 331
- 56 4-33-7, as enacted by Laws of Utah 1981, Chapter 8
- 57 4-39-102, as enacted by Laws of Utah 1997, Chapter 302
- 58 4-39-201, as last amended by Laws of Utah 2010, Chapter 378

- 59 [4-39-203](#), as last amended by Laws of Utah 2009, Chapter 183
- 60 [4-39-205](#), as last amended by Laws of Utah 2010, Chapter 378
- 61 [4-39-206](#), as last amended by Laws of Utah 2010, Chapter 378
- 62 [4-39-301](#), as enacted by Laws of Utah 1997, Chapter 302
- 63 [4-39-302](#), as last amended by Laws of Utah 2010, Chapter 378
- 64 [4-39-305](#), as last amended by Laws of Utah 2010, Chapter 378
- 65 [4-39-306](#), as last amended by Laws of Utah 2010, Chapter 378
- 66 [4-39-401](#), as last amended by Laws of Utah 2014, Chapter 189
- 67 [4-41-103](#), as enacted by Laws of Utah 2014, Chapter 25

68 REPEALS:

- 69 [4-36-1](#), as enacted by Laws of Utah 1985, Chapter 191
- 70 [4-36-2](#), as enacted by Laws of Utah 1985, Chapter 191
- 71 [4-36-3](#), as last amended by Laws of Utah 1997, Chapter 82
- 72 [4-36-4](#), as last amended by Laws of Utah 1997, Chapter 82
- 73 [4-36-5](#), as enacted by Laws of Utah 1985, Chapter 191
- 74 [4-36-6](#), as enacted by Laws of Utah 1985, Chapter 191
- 75 [4-36-7](#), as enacted by Laws of Utah 1985, Chapter 191

76

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

78 Section 1. Section [4-5-2](#) is amended to read:

79 **4-5-2. Definitions.**

80 As used in this chapter:

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

83 (2) (a) "Color additive" means a dye, pigment, or other substance not exempted under
84 the federal act that, when added or applied to a food, is capable of imparting color. "Color"
85 includes black, white, and intermediate grays.

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

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

92 (b) "Consumer commodity" does not include:

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

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

96 (iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec.
97 601 et seq.;

98 (iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec.
99 451 et seq.;

100 (v) a tobacco or tobacco product; or

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

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

105 (5) "Farmers market" means a market where producers of food products sell only fresh,
106 raw, whole, unprocessed, and unprepared food items directly to the final consumer.

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

109 (7) "Food" means:

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

112 (b) chewing gum or its components; or

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

115 (8) (a) "Food additive" means a substance, the intended use of which results in the
116 substance becoming a component, or otherwise affecting the characteristics, of a food. "Food
117 additive" includes a substance or source of radiation intended for use in producing,
118 manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding
119 food.

120 (b) "Food additive" does not include:

- 121 (i) a pesticide chemical in or on a raw agricultural commodity;
- 122 (ii) a pesticide chemical that is intended for use or is used in the production, storage, or
123 transportation of a raw agricultural commodity; or
- 124 (iii) a substance used in accordance with a sanction or approval granted pursuant to the
125 Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act,
126 21 U.S.C. Sec. 601 et seq.
- 127 (9) (a) "Food establishment" means a grocery store, bakery, candy factory, food, farm,
128 processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill,
129 cold or dry warehouse storage, or other facility where food products are grown, manufactured,
130 canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.
- 131 (b) "Food establishment" does not include:
- 132 (i) a dairy farm, a dairy plant, or a meat establishment, which is subject to the Poultry
133 Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21
134 U.S.C. Sec. 601 et seq.; or
- 135 (ii) a farmers market.
- 136 (10) "Label" means a written, printed, or graphic display on the immediate container of
137 an article of food. The department may require that a label contain specific written, printed, or
138 graphic information which is:
- 139 (a) displayed on the outside container or wrapper of a retail package of an article; or
140 (b) easily legible through the outside container or wrapper.
- 141 (11) "Labeling" means a label and other written, printed, or graphic display:
- 142 (a) on an article of food or its containers or wrappers; or
143 (b) accompanying the article of food.
- 144 (12) "Official compendium" means the official documents or supplements to the:
- 145 (a) United States Pharmacopoeia;
146 (b) National Formulary; or
147 (c) Homeopathic Pharmacopoeia of the United States.
- 148 (13) (a) "Package" means a container or wrapping in which a consumer commodity is
149 enclosed for use in the delivery or display of the consumer commodity to retail purchasers.
- 150 (b) "Package" does not include:
- 151 (i) package liners;

152 (ii) shipping containers or wrapping used solely for the transportation of consumer
153 commodities in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail
154 distributors; or

155 (iii) shipping containers or outer wrappings used by retailers to ship or deliver a
156 consumer commodity to retail customers, if the containers and wrappings bear no printed
157 information relating to the consumer commodity.

158 (14) (a) "Pesticide" means a substance intended:

159 (i) to prevent, destroy, repel, or mitigate a pest, as defined under Subsection

160 4-14-2(20); or

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

162 (b) "Pesticide" does not include:

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

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

168 (15) "Principal display panel" means that part of a label that is most likely to be
169 displayed, presented, shown, or examined under normal and customary conditions of display
170 for retail sale.

171 (16) "Raw agricultural commodity" means a food in its raw or natural state, including
172 all fruits that are washed, colored, or otherwise treated in their unpeeled, natural form prior to
173 marketing.

174 (17) "Registration" means the issuance of a certificate by the commissioner to a
175 qualified food establishment.

176 Section 2. Section 4-8-4 is amended to read:

177 **4-8-4. Department functions, powers, and duties.**

178 [~~The department has and shall exercise the following functions, powers, and duties, in]~~
179 In addition to [those] the duties specified in Chapter 1, Short Title and General Provisions, the
180 department has the following functions, powers, and duties:

181 (1) general supervision over the marketing, sale, trade, advertising, storage, and
182 transportation practices, used in buying and selling products of agriculture in Utah;

183 (2) conduct and publish surveys and statistical analyses with its own resources or with
 184 the resources of others through contract, regarding the cost of production for products of
 185 agriculture, including transportation, processing, storage, advertising, and marketing costs;
 186 regarding market locations, demands, and prices for such products; and regarding market
 187 forecasts;

188 (3) assist and encourage producers of products of agriculture in controlling current and
 189 prospective production and market deliveries in order to stabilize product prices at prices
 190 which assure reasonable profits for producers and at the same time ensure adequate market
 191 supplies; ~~[and]~~

192 (4) actively solicit input from the public and from interested groups or associations,
 193 through public hearings or otherwise, to assist in making fair determinations with respect to the
 194 production, marketing, and consumption of products of agriculture~~[-]; and~~

195 (5) making rules, in accordance with Title 63G, Chapter 3, Utah Administrative
 196 Rulemaking Act, in regard to "Utah's Own," a program dedicated to the promotion of locally
 197 produced products of agriculture.

198 Section 3. Section **4-11-2** is amended to read:

199 **4-11-2. Definitions.**

200 As used in this chapter:

201 (1) "Abandoned apiary" means any apiary~~[-(a)]~~ to which the owner or operator fails to
 202 give reasonable and adequate attention during a given year~~[-, with the result that the welfare of a~~
 203 ~~neighboring colony is jeopardized; or]~~ as determined by the department.

204 ~~[(b) that is not properly identified in accordance with this chapter.]~~

205 (2) "Apiary" means any place where one or more colonies of bees are located.

206 (3) "Apiary equipment" means hives, supers, frames, veils, gloves, or other equipment
 207 used to handle or manipulate bees, honey, wax, or hives.

208 (4) "Appliance" means any apparatus, tool, machine, or other device used to handle or
 209 manipulate bees, wax, honey, or hives.

210 (5) "Bee" means the common honey bee, *Apis mellifera*, at any stage of development.

211 (6) (a) "Beekeeper" means a person who keeps bees ~~[in order to:]~~.

212 ~~[(i) collect honey and beeswax;]~~

213 ~~[(ii) pollinate crops; or]~~

214 [~~(iii) produce bees for sale to other beekeepers.~~]

215 (b) "Beekeeper" includes an [~~apiarists~~] apiarist.

216 (7) "Colony" means an aggregation of bees in any type of hive that includes queens,
217 workers, drones, or brood.

218 (8) "Disease" means any infectious or contagious disease affecting bees, as specified by
219 the department, including American foulbrood.

220 (9) "Hive" means a frame hive, box hive, box, barrel, log, gum skep, or other artificial
221 or natural receptacle that may be used to house bees.

222 (10) "Package" means any number of bees in a bee-tight container, with or without a
223 queen, and without comb.

224 (11) "Parasite" means an organism that parasitizes any developmental stage of a bee.

225 (12) "Pest" means an organism that:

226 (a) inflicts damage to a bee or bee colony directly or indirectly; or

227 (b) may damage apiary equipment in a manner that is likely to have an adverse affect
228 on the health of the colony or an adjacent colony.

229 (13) "Raise" means:

230 (a) to hold a colony of bees in a hive for the purpose of pollination, honey production,
231 study, or similar purpose; and

232 (b) when the person holding a colony, holds the colony or a package of bees in the state
233 for a period of time exceeding 30 days.

234 (14) "Terminal disease" means a pest, parasite, or pathogen that will kill an occupant
235 colony or subsequent colony on the same equipment.

236 Section 4. Section ~~4-11-4~~ is amended to read:

237 **4-11-4. Bee raising -- Registration required -- Application -- Fees -- Renewal --**

238 **Wax-salvage plants -- License required -- Application -- Fees -- Renewal.**

239 (1) [~~(a)~~] A person may not raise bees in this state without being registered with the
240 department.

241 [~~(b)~~] (2) Application for registration to raise bees shall be made to the department upon
242 tangible or electronic forms prescribed and furnished by the department, within 30 days after
243 the person:

244 [~~(i)~~] (a) takes possession of the bees; or

245 [(i)] (b) moves the bees into the state.

246 [(e)] (3) Nothing in Subsection [(1)(b)] (2) limits the requirements of Section 4-11-11.

247 [(d)] (4) An application in accordance with this chapter shall specify:

248 [(i)] (a) the name and address of the applicant;

249 [(i)] (b) the number of bee colonies owned by the applicant at the time of the

250 application that will be present in the state for a period exceeding 30 days; and

251 [(iii)] (c) any other relevant information the department considers appropriate.

252 [(e)] (5) Upon receipt of a proper application and payment of an annual registration fee

253 determined by the department pursuant to Subsection 4-2-2(2), the commissioner shall issue a

254 registration to the applicant valid through December 31 of the year in which the registration is

255 issued, subject to suspension or revocation for cause.

256 [(f)] (6) A bee registration is renewable for a period of one year upon the payment of

257 an annual registration renewal fee as determined by the department pursuant to Subsection

258 4-2-2(2).

259 [(g)] (7) Registration shall be renewed on or before December 31 of each year.

260 [(2)(a) A person may not operate a wax-salvage plant without a license issued by the

261 department.]

262 [(b) Application for a license to operate a wax-salvage plant shall be made to the

263 department upon tangible or electronic forms prescribed and furnished by the department.]

264 [(c) The application shall specify such information as the department considers

265 appropriate.]

266 [(d) Upon receipt of a proper application and payment of a license fee as determined by

267 the department pursuant to Subsection 4-2-2(2), the commissioner, if satisfied that the

268 convenience and necessity of the industry and the public will be served, shall issue a license

269 entitling the applicant to operate a wax-salvage plant through December 31 of the year in

270 which the license is issued, subject to suspension or revocation for cause.]

271 [(e) A wax-salvage license is renewable for a period of one year, on or before

272 December 31 of each year, upon the payment of an annual license renewal fee as determined by

273 the department pursuant to Subsection 4-2-2(2).]

274 Section 5. Section 4-11-13 is amended to read:

275 **4-11-13. Unlawful acts specified.**

276 It is unlawful for a person to:

277 (1) extract honey in any place where bees can gain access either during or after the
278 extraction process;

279 [~~(2) remove honey or wax, or attempt to salvage, or salvage any hives, apiary
280 equipment, or appliances from a diseased colony, except in a licensed wax-salvage plant,
281 unless specifically authorized by a county bee inspector or the commissioner;~~]

282 [~~(3)~~] (2) maintain any neglected or abandoned hives, apiary equipment, or appliances
283 other than in an enclosure that prohibits the entrance of bees;

284 [~~(4)~~] (3) raise bees without being registered with the department;

285 [~~(5) operate a wax-salvage plant without a license;~~]

286 [~~(6) store an empty hive body, apiary equipment, or appliances in a manner that may
287 propagate pests, disease, or bee feeding frenzy; or~~]

288 [~~(7)~~] (4) knowingly sell a colony, apiary equipment, or appliances that are inoculated
289 with terminal disease pathogens[-]; or

290 (5) create a feeding frenzy.

291 Section 6. Section 4-12-2 is amended to read:

292 **4-12-2. Definitions.**

293 As used in this chapter:

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

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

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

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

302 (iv) that contains a pesticide chemical in or on a raw agricultural commodity which is
303 unsafe within the meaning of 21 U.S.C. Sec. 346a unless it is used in or on the raw agricultural
304 commodity in conformity with an exemption or tolerance prescribed under 21 U.S.C. Sec. 346a
305 and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so
306 that the residue, if any, of the pesticide chemical in or on such processed feed is removed to the

307 extent possible through good manufacturing practices as prescribed by rules of the department
 308 so that the concentration of the residue in the processed feed is not greater than the tolerance
 309 prescribed for the raw agricultural commodity in 21 U.S.C. Sec. 346a;

310 (v) that contains viable weed seeds in amounts exceeding limits established by rule of
 311 the department; ~~[or]~~

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

317 (vii) that consists, in whole or in part, of any filthy, putrid, or decomposed substance,
 318 or is otherwise unfit for feed; or

319 (viii) that has been prepared, packed, or held under unsanitary conditions so that the
 320 feed may have become contaminated with filth or otherwise rendered injurious to health; or

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

323 (2) "Brand name" means any word, name, symbol, or device ~~[that identifies the~~
 324 ~~distributor or registrant of a commercial feed.]~~ or combination of word, name, symbol or
 325 device:

326 (a) identifying the commercial feed of a distributor or registrant; and

327 (b) distinguishing the commercial feed from the commercial feed of others.

328 (3) (a) ~~["Commercial]~~ Subject to Subsection (3)(b), "commercial feed" means all
 329 materials, except unadulterated whole unmixed seeds or unadulterated physically altered entire
 330 unmixed seeds, that are distributed for use as feed or for mixing in feed[; ~~provided, that the~~].

331 (b) The department may exempt from [this] the definition in Subsection (3)(a) by rule[;
 332 or from specific sections of this chapter, commodities such as] commodities like hay, straw,
 333 stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if the
 334 commodities, compounds, or substances are not:

335 (i) inter-mixed or mixed with other materials[;]; and [are not]

336 (ii) adulterated within the meaning of Subsection (1)(a).

337 (4) "Contract feeder" means a person:

- 338 (a) who is an independent contractor;
- 339 (b) who feeds commercial feed to an animal pursuant to the terms of a contract;
- 340 (c) to whom commercial feed is supplied, furnished, or otherwise provided to pursuant
- 341 to the terms of a contract; and
- 342 (d) whose remuneration is determined in whole or in part by feed consumption,
- 343 mortality, profit, or amount or quality of product.

344 ~~[(4)]~~ (5) "Customer-formula feed" means commercial feed that consists of a mixture of

345 commercial feeds or feed ingredients, each batch of which is manufactured according to the

346 specific instructions of the final purchaser.

347 ~~[(5)]~~ (6) "Distribute" means to:

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

350 ~~[(6)]~~ (7) "Drug" means any article intended for use in the diagnosis, cure, mitigation,

351 treatment, or prevention of disease in animals other than man and articles other than feed

352 intended to affect the structure or any function of the animal body.

353 ~~[(7)]~~ (8) "Feed ingredient" means each constituent material in a commercial feed.

354 ~~[(8)]~~ (9) "Label" means any written, printed, or graphic matter upon or accompanying a

355 commercial feed.

356 ~~[(9)]~~ (10) "Manufacture" means to grind, mix, blend, or otherwise process a

357 commercial feed for distribution.

358 ~~[(10)]~~ (11) "Mineral feed" means a commercial feed intended to supply primarily

359 mineral elements or inorganic nutrients.

360 ~~[(11)]~~ (12) "Misbranded" means any commercial feed, whether in a container or in

361 bulk, that:

362 (a) bears a label that is false or misleading in any particular, ~~[or that]~~ if the commercial

363 feed is distributed under the name of another commercial feed; or

364 (b) bears a label that does not strictly conform to the labeling requirements of Section

365 4-12-5.

366 ~~[(12)]~~ (13) "Official sample" means a sample of commercial feed taken by the

367 department in accordance with this chapter and designated as "official."

368 ~~[(13)]~~ (14) "Percent" or "percentage" means percentage by weight.

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

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

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

373 (a) identifies the commercial feed as to kind, class, or specific use; and

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

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

377 (19) "Specialty pet" means any domesticated animal normally maintained in a cage or
378 tank, such as a gerbil, hamster, canary, psittacine bird, mynah, finch, tropical fish, goldfish,
379 snake, or turtle.

380 (20) "Specialty pet food" means a commercial feed prepared and distributed for
381 consumption by a specialty pet.

382 ~~[(14)]~~ (21) "Ton" means a net weight of 2,000 pounds avoirdupois.

383 Section 7. Section **4-12-3** is amended to read:

384 **4-12-3. Department authorized to make and enforce rules -- Cooperation with**
385 **state and federal agencies authorized.**

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

391 (2) In the interest of uniformity, the department shall by rule adopt the following,
392 unless the department determines that they are inconsistent with the provisions of this chapter
393 or are not appropriate to conditions that exist in this state:

394 (a) the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the
395 Association of American Feed Control Officials and published in the official publication of
396 that organization; and

397 (b) any federal regulation made pursuant to the authority of the Federal Food, Drug,
398 and Cosmetic Act, U.S.C. Sec. 301 et seq., so long as the department would have the authority
399 under this chapter to make a corresponding rule.

400 Section 8. Section 4-12-4 is amended to read:

401 **4-12-4. Distribution of commercial and customer-formula feed -- Registration or**
402 **permit required -- Application -- Fees -- Expiration -- Renewal.**

403 (1) (a) No person may distribute a commercial feed in this state which is not registered
404 with the department.

405 (b) Application for registration shall be made to the department upon forms prescribed
406 and furnished by it accompanied with an annual registration fee, determined by the department
407 pursuant to Subsection 4-2-2(2), for each brand name of commercial feed registered.

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

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

413 (i) refuse registration to any commercial feed found not to be in compliance with the
414 provisions of this chapter; and

415 (ii) cancel any registration found to not be in compliance with any provision of this
416 chapter.

417 (b) No registration shall be refused or canceled unless the department gives the
418 registrant an opportunity to:

419 (i) be heard before the department; and

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

422 [~~2~~] (3) (a) A person who distributes customer-formula feed is not required to register
423 such feed, but is required to obtain a [~~permit~~] license from the department before distribution.

424 (b) Application for a customer-formula feed distribution [~~permit~~] license shall be made
425 to the department upon forms prescribed and furnished by [~~it~~] the department accompanied
426 with an annual [~~permit~~] license fee determined by the department pursuant to Subsection
427 4-2-2(2).

428 (c) Upon receipt by the department of a proper application and payment of the
429 appropriate fee as prescribed by the department, the commissioner shall issue a [~~permit~~] license
430 to the applicant allowing the applicant to distribute customer-formula feed in this state through

431 December 31 of the year in which the [~~permit~~] license is issued, subject to suspension or
 432 revocation for cause.

433 [~~(3)~~] (4) (a) Each registration is renewable for a period of one year upon the payment of
 434 an annual registration renewal fee in an amount equal to the current applicable original
 435 registration fee.

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

437 [~~(4)~~] (5) (a) A customer-formula feed [~~permit~~] license is renewable for a period of one
 438 year upon the payment of an annual [~~permit~~] license renewal fee in an amount equal to the
 439 current applicable original [~~permit~~] license fee.

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

442 Section 9. Section 4-12-5 is amended to read:

443 **4-12-5. Labeling requirements for commercial and customer-formula feed**
 444 **specified.**

445 (1) Each container of commercial feed, except customer-formula feed, distributed in
 446 this state shall bear a label setting forth:

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

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

451 (c) the [~~feed ingredients~~] common name of each feed ingredient used in the
 452 commercial feed stated in the manner prescribed by rule of the department;

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

454 (i) stated in terms that shall advise the user of the feed of the composition of the feed;

455 or

456 (ii) to support claims made in the labeling;

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

458 (e) a quantity statement for the feed;

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

460 (g) adequate directions for safe and effective use; and

461 [~~(f)~~] (h) precautionary statements, if necessary, or any information prescribed by rule of

462 the department considered necessary for the safe and effective use of the feed.

463 (2) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative
464 Rulemaking Act, make rules to:

465 (a) authorize a label to use a collective term for a group of ingredients that perform a
466 similar function; and

467 (b) exempt a commercial feed type from the requirements of Subsection (1)(c) if the
468 department makes a finding that a full statement of ingredients is not required in the interest of
469 a consumer.

470 ~~[(2)]~~ (3) (a) Each bulk shipment of commercial feed, except customer-formula feed,
471 distributed in this state shall be accompanied with a printed or written statement specifying the
472 information in [Subsection] Subsections (1)(a) through [(f) of this section] (h).

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

475 ~~[(3)]~~ (4) Each container or bulk shipment of customer-formula feed distributed in this
476 state shall [bear a label or] be accompanied [with an] by a label, invoice, delivery slip, or other
477 shipping document setting forth:

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

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

480 (c) the date of delivery;

481 ~~[(d) the net weight of each registered commercial feed used in the mixture and the net~~
482 ~~weight of each other ingredient used; and]~~

483 (d) the product name and quantity statement of each commercial feed and, except as
484 provided in Subsection (5), the quantity statement of each ingredient used in the mixture, stated
485 in terms the department determines necessary to advise the user of the composition of the feed
486 or to support claims made on the label;

487 (e) the directions for use and precautionary statements, if applicable; and

488 ~~[(e)]~~ (f) any information prescribed by rule of the department considered necessary for
489 the safe and effective use of the customer-formula feed.

490 (5) If the manufacturer of the customer-formula feed intends to protect a proprietary
491 formula, the information required by Subsection (4)(d) may be substituted for a guaranteed
492 analysis of each nutritional component for which the feed is intended to deliver, stated in terms

493 the department determines to be necessary to advise the user of the composition of the feed.

494 (6) If the customer-formula feed contains a drug, the label shall also include:

495 (a) the purpose of the medication; and

496 (b) the established name of each active drug ingredient and the level of each drug used

497 in the final mixture, expressed by weight, grams per ton, or milligrams per pound.

498 Section 10. Section 4-12-6 is amended to read:

499 **4-12-6. Enforcement -- Inspection and samples authorized -- Methods for**
500 **sampling and analysis prescribed -- Results to be forwarded to registrant or permittee --**

501 **Warrants.**

502 (1) The department:

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

507 (b) may enter during normal business hours, within reasonable limits and in a
508 reasonable manner, any factory, warehouse, or establishment in which commercial feed are
509 manufactured, processed, packed, or held for distribution, or enter any vehicle used to transport
510 or hold commercial feed, in order to inspect equipment, finished and unfinished materials,
511 containers, records, and labels in order to determine compliance with this chapter.

512 (2) Methods for sampling and for analyses of feed ingredients, mineral ingredients, or
513 other ingredients, or analyses of commercial feed mixtures (customer-formula feeds) shall be
514 made in accordance with methods published by the Association of Official Analytical Chemists
515 or other generally recognized methods.

516 (3) The department shall be guided by the official sample in determining whether a
517 commercial feed is misbranded, adulterated, or otherwise deficient.

518 (4) (a) The results of all tests of official samples shall be forwarded by the department
519 to the manufacturer, distributor, registrant₂ or permittee, as the case may be, to the address
520 specified on the container, label, or on the written statement or invoice.

521 (b) In addition to the requirements of Subsection (4)(a), the department shall furnish to
522 the manufacturer, distributor, registrant₂ or [permittee] licensee part of any official sample
523 [which it] that the department determines is misbranded or adulterated upon written request to

524 the department made by the manufacturer, distributor, registrant, or permittee within 30 days
525 after receipt of the unsatisfactory test results.

526 (5) The department may proceed immediately, if admittance is refused, to obtain an ex
527 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
528 for the purpose of making inspections and obtaining samples.

529 Section 11. Section 4-12-7 is amended to read:

530 **4-12-7. Suspension or revocation authorized -- Refusal to register or issue permit**
531 **authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action --**
532 **Procedure -- Costs.**

533 (1) The department may suspend or revoke the registration or [permit] license,
534 respectively, of any brand name of commercial feed or customer-formula feed, or refuse to
535 register or issue a [permit] license for any brand name or product of commercial feed, upon
536 satisfactory evidence that the manufacturer, distributor, registrant, or permittee has used
537 fraudulent or deceptive practices in the registration of a commercial feed or in the issuance of a
538 [permit] license, or in [its] the commercial feed's distribution in this state.

539 (2) The department may issue a "stop sale, use, or removal order" to the distributor or
540 owner of any designated commercial feed or lot of commercial feed which it finds or has
541 reason to believe is misbranded, adulterated, or is otherwise in violation of this chapter. The
542 order shall be in writing and no commercial feed subject to it shall be moved, offered, or
543 exposed for sale, except upon subsequent written release by the department. Before a release is
544 issued, the department may require the distributor or owner of the "stopped" commercial feed
545 or lot to pay the expense incurred by the department in connection with the withdrawal of the
546 product from the market.

547 (3) The department is authorized in a court of competent jurisdiction to seek an order
548 of seizure or condemnation of a commercial feed which violates this chapter or, upon proper
549 grounds, to obtain a temporary restraining order or permanent injunction to prevent the
550 violation of this chapter. No bond shall be required of the department in an injunctive
551 proceeding brought under this section.

552 (4) If condemnation is ordered, the commercial feed shall be disposed of as the court
553 directs; provided, that in no event shall it order condemnation without giving the registrant or
554 other person an opportunity to apply to the court for permission to relabel, reprocess, or

555 otherwise bring the commercial feed into conformance, or for permission to remove it from the
556 state.

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

559 Section 12. Section **4-12-8** is amended to read:

560 **4-12-8. Unlawful acts specified.**

561 No person in this state shall:

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

563 (2) adulterate or misbrand any commercial feed;

564 (3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs,
565 husks, or bulbs which are adulterated;

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

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

570 (6) reuse a bag or tote that had been previously used for commercial feed, including a
571 customer-formula commercial feed, unless:

572 (a) the bag or tote has been appropriately cleaned; and

573 (b) the user documents the cleanout procedure used on the bag or tote.

574 Section 13. Section **4-14-8** is amended to read:

575 **4-14-8. Suspension or revocation -- Grounds -- Stop sale, use, or removal order**
576 **authorized -- Court action -- Procedure -- Award of costs authorized.**

577 (1) The department may revoke or suspend the registration of any pesticide upon
578 satisfactory evidence that the registrant has used fraudulent or deceptive practices in the
579 registration of the pesticide or in its distribution in this state.

580 (2) The department may issue a "stop sale, use, or removal order" to the owner or
581 distributor of any designated pesticide or lot of pesticide which it finds or has reason to believe
582 is being offered or exposed for sale in violation of this chapter. The order shall be in writing
583 and no pesticide subject to it shall be moved, offered, or exposed for sale, except upon the
584 subsequent written release by the department. Before a release is issued, the department may
585 require the owner or distributor of the "stopped" pesticide or lot to pay the expense incurred by

586 the department in connection with the withdrawal of the product from the market.

587 (3) The department is authorized in a court of competent jurisdiction to seek an order
588 of seizure or condemnation of a pesticide which violates this chapter or, upon proper grounds,
589 to obtain a temporary restraining order or permanent injunction to prevent the violation of this
590 chapter. No bond shall be required of the department in an injunctive proceeding brought under
591 this section.

592 (4) If condemnation is ordered, the pesticide or equipment shall be disposed of as the
593 court directs; provided, that in no event shall it order condemnation without giving the
594 registrant or other person an opportunity to apply to the court for permission to relabel,
595 reprocess, or otherwise bring the pesticide into conformance, or for permission to remove it
596 from the state.

597 (5) If the court orders condemnation, court costs, fees, storage, and other costs shall be
598 awarded against the claimant of the pesticide or equipment.

599 (6) The department may:

600 (a) deny an application for a pesticide applicator license;

601 (b) revoke a pesticide applicator license for cause; or

602 (c) suspend a pesticide applicator license for cause.

603 (7) (a) If a pesticide applicator license is revoked or suspended under Subsection (6),
604 the license shall be returned to the department within 14 days of the day on which the licensee
605 received notice of the revocation or suspension.

606 (b) A licensee who fails to return a license as described in Subsection (7)(a) may be
607 subject to an administrative fine of up to \$100 for each 14 days the license is not returned.

608 Section 14. Section **4-18-105** is amended to read:

609 **4-18-105. Conservation Commission -- Functions and duties.**

610 (1) The commission shall:

611 (a) facilitate the development and implementation of the strategies and programs
612 necessary to:

613 (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state;
614 and

615 (ii) promote the protection, integrity, and restoration of land for agricultural and other
616 beneficial purposes;

- 617 (b) disseminate information regarding districts' activities and programs;
- 618 (c) supervise the formation, reorganization, or dissolution of districts according to the
619 requirements of Title 17D, Chapter 3, Conservation District Act;
- 620 (d) prescribe uniform accounting and recordkeeping procedures for districts and
621 require each district to submit annually an audit of its funds to the commission;
- 622 (e) approve and make loans for agricultural purposes, through the advisory board
623 described in Section 4-18-106, from the Agriculture Resource Development Fund, for:
- 624 (i) rangeland improvement and management projects;
- 625 (ii) watershed protection and flood prevention projects;
- 626 (iii) agricultural cropland soil and water conservation projects;
- 627 (iv) programs designed to promote energy efficient farming practices; and
- 628 (v) programs or improvements for agriculture product storage or protections of a crop
629 or animal resource;
- 630 (f) administer federal or state funds, including loan funds under this chapter, in
631 accordance with applicable federal or state guidelines and make loans or grants from those
632 funds to land occupiers for:
- 633 (i) conservation of soil or water resources;
- 634 (ii) maintenance of rangeland improvement projects;
- 635 (iii) development and implementation of coordinated resource management plans, as
636 defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and
- 637 (iv) control or eradication of noxious weeds and invasive plant species:
- 638 (A) in cooperation and coordination with local weed boards; and
- 639 (B) in accordance with Section 4-2-8.7;
- 640 (g) seek to coordinate soil and water protection, conservation, and development
641 activities and programs of state agencies, local governmental units, other states, special interest
642 groups, and federal agencies;
- 643 (h) plan watershed and flood control projects in cooperation with appropriate local,
644 state, and federal authorities, and coordinate flood control projects in the state;
- 645 (i) assist other state agencies with conservation standards for agriculture when
646 requested; and
- 647 (j) when assigned by the governor, when required by contract with the Department of

648 Environmental Quality, or when required by contract with the United States Environmental
649 Protection Agency:

650 (i) develop programs for the prevention, control, or abatement of new or existing
651 pollution to the soil, water, or air of the state;

652 (ii) advise, consult, and cooperate with affected parties to further the purpose of this
653 chapter;

654 (iii) conduct studies, investigations, research, and demonstrations relating to
655 agricultural pollution issues;

656 (iv) give reasonable consideration in the exercise of its powers and duties to the
657 economic impact on sustainable agriculture;

658 (v) meet the requirements of federal law related to water and air pollution in the
659 exercise of its powers and duties; and

660 (vi) establish administrative penalties relating to agricultural discharges as defined in
661 Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

662 (2) The commission may:

663 (a) employ, with the approval of the department, an administrator and necessary
664 technical experts and employees;

665 (b) execute contracts or other instruments necessary to exercise its powers;

666 (c) take necessary action to promote and enforce the purpose and findings of Section
667 4-18-102;

668 (d) sue and be sued; and

669 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
670 Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and
671 Subsections (2)(b) and (c).

672 ~~[(3) If, under Subsection (2)(a), the commission employs an individual who was
673 formerly an employee of a conservation district or the Utah Association of Conservation
674 Districts, the Department of Human Resource Management shall:]~~

675 ~~[(a) recognize the employee's employment service credit from the conservation district
676 or association in determining leave accrual in the employee's new position within the state;
677 and]~~

678 ~~[(b) set the initial wage rate for the employee at the level that the employee was~~

679 receiving as an employee of the conservation district or association.]

680 [~~(4) An employee described in Subsection (3) is exempt from the career service~~
681 ~~provisions of Title 67, Chapter 19, Utah State Personnel Management Act, and shall be~~
682 ~~designated under schedule codes and parameters established by the Department of Human~~
683 ~~Resource Management under Subsection 67-19-15(1)(p) until the commission, under~~
684 ~~parameters established by the Department of Human Resource Management, designates the~~
685 ~~employee under a different schedule recognized under Section 67-19-15.]~~

686 [(5) (a) ~~For purposes of the report required by Subsection (5)(b), the commissioner~~
687 ~~shall study the organizational structure of the employees described in Subsection (3).]~~

688 [(b) ~~The commissioner shall report to the Natural Resources, Agriculture, and~~
689 ~~Environmental Quality Appropriations Subcommittee by no later than that subcommittee's~~
690 ~~November 2015 interim meeting regarding the study required by Subsection (5)(a).]~~

691 Section 15. Section 4-19-3 is amended to read:

692 **4-19-3. Loans -- Not to exceed period of 10 years -- Agricultural Advisory Board**
693 **to approve loans and renewals, methods of payments, and interest rates -- Guidelines in**
694 **fixing interest rates declared.**

695 (1) The department may not make a loan authorized under this chapter for a period to
696 exceed 10 years but the loan is renewable.

697 (2) ~~[The]~~ Except as provided in Subsection (5), the Agricultural Advisory Board shall
698 approve:

699 (a) all loans and renewals;

700 (b) the methods of repayment; and

701 (c) the interest rates charged.

702 (3) In fixing interest rates, the Agricultural Advisory Board shall consider:

703 (a) the current applicable interest rate or rates being charged by the USDA Farm
704 Service Agency on similar loans;

705 (b) the current prime rate charged by leading lending institutions; and

706 (c) any other pertinent economic data.

707 (4) The interest rates established shall be compatible with guidelines stated in this
708 section.

709 (5) The Agricultural Advisory Board may create a subcommittee from the board's

710 membership to approve a loan or renewal under this section.

711 Section 16. Section **4-23-3** is amended to read:

712 **4-23-3. Definitions.**

713 As used in this chapter:

714 (1) "Agricultural crops" means any product of cultivation;

715 (2) "Board" means the Agricultural and Wildlife Damage Prevention Board;

716 (3) "Bounty" means the monetary compensation paid persons for the harvest of
717 predatory or depredating animals;

718 (4) "Damage" means any injury or loss to livestock, poultry, agricultural crops, or
719 wildlife inflicted by predatory or depredating animals or depredating birds;

720 (5) "Depredating animal" means a field mouse, gopher, ground squirrel, jack rabbit,
721 raccoon, or prairie dog;

722 (6) "Depredating bird" means a Brewer's blackbird or starling;

723 (7) "Livestock" means cattle, horses, mules, sheep, goats, and swine;

724 (8) "Predatory animal" means any coyote, cougar, or bear; and

725 (9) "Wildlife" means any form of animal life generally living in a state of nature,
726 except a predatory animal or a depredating animal or bird.

727 Section 17. Section **4-24-2** is amended to read:

728 **4-24-2. Definitions.**

729 As used in this chapter:

730 (1) "Brand" means any identifiable mark applied to livestock which is intended to show
731 ownership.

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

734 (3) "Domesticated elk" shall have the meaning as defined in Section [4-39-102](#).

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

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

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

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

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

744 (ii) a place where an association of livestock breeders under its own management,
745 offers registered livestock or breeding sires for sale and assumes all responsibility for the sale,
746 guarantees title to the livestock or sires sold, and arranges with the department for brand
747 inspection of all animals sold.

748 (7) "Mark" means any dulap, waddle, or cutting and shaping of the ears or brisket area
749 of livestock which is intended to show ownership.

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

752 ~~[(8)]~~ (9) "Slaughterhouse" means any building, plant, or establishment where animals
753 are killed, dressed, or processed and their meat or meat products offered for sale for human
754 consumption.

755 Section 18. Section **4-24-11** is amended to read:

756 **4-24-11. Certificate of brand inspection necessary to carry out change of**
757 **ownership -- Exception.**

758 (1) (a) Except as provided in Subsection (2), the ownership of cattle, horses,
759 ~~[domesticated elk,]~~ or mules may not be transferred to any other person, through sale or
760 otherwise, without a certificate of brand inspection issued by a department brand inspector.

761 (b) Ownership of a domesticated elk in Utah may not be sold or transferred between
762 licensed facilities without an interstate movement of domesticated elk form, provided by the
763 department.

764 (c) A copy of the completed form described in Subsection (1)(b) shall:

765 (i) accompany each animal in transit; and

766 (ii) be completed electronically or mailed or faxed to the Division of Animal Industry
767 within five business days of the sale or transfer.

768 (2) (a) A brand inspection is not required to transfer ownership of dairy calves from the
769 farm of origin under 60 days of age.

770 (b) Any person who transports dairy calves that have not been brand inspected pursuant
771 to Subsection (2)(a) shall be required to show a sales invoice upon request.

772 Section 19. Section 4-24-17 is amended to read:

773 **4-24-17. Transportation of sheep, cattle, domesticated elk, horses, or mules --**
774 **Brand certificate or other evidence of ownership required -- Transit permit -- Contents.**

775 (1) No person may transport any sheep, cattle, horses, [~~domesticated elk,~~] or mules
776 without having an official state brand certificate or other proof of ownership in his possession.

777 (2) Domesticated elk moved intrastate:

778 (a) shall be accompanied with an intrastate movement of domesticated elk form
779 provided by the department; and

780 (b) may only be moved from a licensed facility to another licensed facility.

781 (3) An official state brand inspection shall accompany all domesticated elk to be
782 transported from this state to a place outside of this state.

783 [~~2~~] (4) Each person transporting livestock for another person shall have a transit
784 permit signed by the owner or the owner's authorized agent specifying the:

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

786 (b) date of transportation;

787 (c) place of origin or loading;

788 (d) destination;

789 (e) date of issuance; [~~and~~]

790 (f) number of animals being transported[.]; and

791 (g) full description of animals being transported.

792 Section 20. Section 4-31-111 is amended to read:

793 **4-31-111. Imported animals -- Health certificate.**

794 (1) Except as provided by rule made by the department, a person may not import an
795 animal into this state unless the animal is accompanied by a health certificate that:

796 [~~1~~] (a) meets the requirements of department rules; and

797 [~~2~~] (b) is issued by a federally accredited veterinarian.

798 (2) The department may require an entry permit before an animal is imported into the
799 state.

800 Section 21. Section 4-33-7 is amended to read:

801 **4-33-7. Inspection, sampling, testing, and analysis of fuels by department.**

802 (1) The department shall periodically sample, inspect, analyze and test motor fuels

803 dispensed in this state and may enter any public premises or vehicle for the purpose of
804 determining compliance with this chapter.

805 (2) (a) Methods of sampling, testing, analyzing, and designating motor fuels shall
806 [~~accord with those~~] conform with methods specified and published by the American Society for
807 Testing and Materials.

808 (b) [~~The~~] Unless modified by the department by rule, the department shall use the latest
809 published standards of the American Society for Testing and Materials.

810 (3) Upon request the department shall pay the posted price for samples and the person
811 from whom the sample is taken shall give a signed receipt evidencing payment.

812 (4) Tests and analyses conducted by the department shall be prima facie evidence of
813 the facts shown by such tests in any court proceeding.

814 Section 22. Section **4-39-102** is amended to read:

815 **4-39-102. Definitions.**

816 As used in this chapter:

817 (1) "Domesticated elk" means elk of the genus and species [~~cervus~~] Cervus elaphus,
818 held in captivity and domestically raised for commercial purposes.

819 (2) "Domesticated elk facility" means a facility where only domesticated elk are raised
820 or hunted.

821 (3) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat
822 food product, antlers, or any part of a domesticated elk.

823 Section 23. Section **4-39-201** is amended to read:

824 **4-39-201. Fencing, posts, and gates.**

825 (1) Each domesticated elk facility shall, at a minimum, meet the requirements of this
826 section and shall be constructed to prevent the movement of [~~domesticated elk~~] cervids, both
827 captive and wild, into or out of the facility.

828 (2) (a) All perimeter fences and gates shall be:

829 (i) touching the ground and reaching a minimum of eight feet above ground level; and

830 (ii) constructed of hi-tensile steel.

831 (b) At least the bottom four feet shall be mesh with a maximum mesh size of 6" x 6".

832 (c) The remaining four feet shall be mesh with a maximum mesh size of 12" x 6".

833 (3) The minimum wire gauge shall be 14-1/2 gauge for a 2 woven hi-tensile fence.

834 (4) All perimeter gates at the entrances of domesticated elk handling facilities shall be
835 locked, with consecutive or self-closing gates when animals are present.

836 (5) Posts shall be:

- 837 (a) (i) constructed of treated wood which is at least four inches in diameter; or
- 838 (ii) constructed of a material with the strength equivalent of Subsection (5)(a)(i);
- 839 (b) spaced no more than 30 feet apart if one stay is used, or 20 feet apart if no stays are
840 used; and
- 841 (c) at least eight feet above ground level and two feet below ground level.

842 (6) Stays, between the posts, shall be:

- 843 (a) constructed of treated wood or steel;
- 844 (b) spaced no more than 15 feet from any post; and
- 845 (c) at least eight feet above ground level, and two feet below ground level.

846 (7) Corner posts and gate posts shall be braced wood or its strength equivalent.

847 Section 24. Section **4-39-203** is amended to read:

848 **4-39-203. License required to operate a domesticated elk facility.**

849 (1) A person may not operate a domesticated elk facility without first obtaining a
850 license from the department.

851 (2) (a) Each application for a license to operate a domesticated elk facility shall be
852 accompanied by a fee.

853 (b) The fee shall be established by the department in accordance with Section
854 [63J-1-504](#).

855 (3) Each applicant for a domesticated elk facility license shall submit an application
856 providing all information in the form and manner as required by the department.

857 (4) (a) No license shall be issued until the department has inspected and approved the
858 facility.

859 (b) The department shall:

- 860 (i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled
861 inspection so that a Division of Wildlife Resources representative may be present at the
862 inspection; and

- 863 (ii) provide the Division of Wildlife Resources with copies of all licensing and
864 inspection reports.

865 (5) Each separate location of the domesticated elk operation shall be licensed
866 separately.

867 (6) (a) If a domesticated elk facility is operated under more than one business name
868 from a single location, the name of each operation shall be listed with the department in the
869 form and manner required by the department.

870 (b) The department shall require that a separate fee be paid for each business name
871 listed.

872 (c) If a domesticated elk facility operates under more than one business name from a
873 single location, ~~the~~ each facility shall maintain separate records.

874 (7) Each person or business entity with an equity interest in the domesticated elk shall
875 be listed on the application for license.

876 (8) Each domesticated elk facility license shall expire on July 1 in the year following
877 the year of issuance.

878 (9) Each licensee shall report to the department, in the form and manner required by
879 the department, any change in the information provided in the licensee's application or in the
880 reports previously submitted, within 15 days of each change.

881 (10) Licenses issued pursuant to this section are not transferable.

882 Section 25. Section **4-39-205** is amended to read:

883 **4-39-205. License renewal.**

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

885 (a) an inspection certificate showing that:

886 (i) the domesticated elk, on the domesticated elk facility, have been inspected and
887 certified by the department for health, proof of ownership, and genetic purity certification for
888 all elk imported into the state; and

889 (ii) the facility has been properly maintained as provided in this chapter during the
890 immediately preceding 60-day period; and

891 (b) a record of each purchase of domesticated elk and transfer of domesticated elk into
892 the facility, which shall include the following information:

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

894 (ii) date of transaction; and

895 (iii) number and sex.

896 (2) (a) If the application for renewal is not received on or before April 30, a late fee
897 will be charged.

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

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

901 Section 26. Section **4-39-206** is amended to read:

902 **4-39-206. Records to be maintained.**

903 (1) The following records and information shall be maintained by a domesticated elk
904 facility ~~[for a period of five years]~~ for the life of the animal:

905 (a) records of purchase, acquisition, distribution, and production histories of
906 domesticated elk;

907 (b) records documenting antler harvesting, production, and distribution; and

908 (c) health certificates and genetic purity records for all elk imported into the state as
909 provided in Section 4-39-301.

910 (2) For purposes of carrying out the provisions of this chapter and rules ~~[promulgated]~~
911 made under this chapter and, at any reasonable time during regular business hours, the
912 department shall have free and unimpeded access to inspect all records required to be kept.

913 (3) The department may make copies of the records referred to in this section.

914 Section 27. Section **4-39-301** is amended to read:

915 **4-39-301. Health requirements -- Proof of source.**

916 ~~[As part of any inspection for licensing or renewing the license of a domesticated elk~~
917 ~~facility, or for the importation, transportation, or change of ownership of any domesticated elk,~~
918 ~~the department shall require:]~~

919 ~~[(1) proof of genetic testing to ensure the purity of the domesticated elk herds and~~
920 ~~prevent the introduction of red deer or hybrid nonnative species into domesticated elk herds in~~
921 ~~Utah by showing evidence of the purity of live animals, gametes, eggs, sperm, or other genetic~~
922 ~~material; and]~~

923 (1) The department shall require:

924 (a) domesticated elk, including gametes, eggs, or sperm, imported into the state to:

925 (i) test negative for the red deer genetic factor;

926 (ii) be registered with gold or silver status with the North American Elk Breeders

927 Association; or

928 (iii) come from a state that has a red deer genetic factor prevention program approved
 929 by the department; and

930 ~~[(2)]~~ (b) proof that the domesticated elk originates from a legal source ~~[as provided in~~
 931 ~~Section 4-39-302].~~

932 (2) The information described in Subsection (1) constitutes genetic purity.

933 Section 28. Section **4-39-302** is amended to read:

934 **4-39-302. Acquisition of domesticated elk for use in domesticated elk facilities.**

935 Domesticated elk intended for use in domesticated elk facilities shall meet all health
 936 ~~[and genetic]~~ requirements of this chapter.

937 Section 29. Section **4-39-305** is amended to read:

938 **4-39-305. Transportation of domesticated elk to or from domesticated elk**
 939 **facilities.**

940 (1) Any domesticated elk transferred to or from a domesticated elk facility within the
 941 state shall be~~[(1)]~~ accompanied by ~~[a brand inspection certificate]~~ an intrastate movement of
 942 domesticated elk form specifying the following:

943 (a) the name, address, and facility license number of the source;

944 (b) number, sex, and individual identification number; and

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

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

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

948 (2) The intrastate movement of domesticated elk form shall be completed
 949 electronically, mailed, or faxed to the department within five business days of the transfer.

950 Section 30. Section **4-39-306** is amended to read:

951 **4-39-306. Movement, sale, or slaughter.**

952 ~~[(1) Each domesticated elk facility licensee shall have the domesticated elk inspected~~
 953 ~~by the department prior to any transportation, sale, removal of antlers, or slaughter.]~~

954 ~~[(2)]~~ (1) Any person transporting or possessing domesticated elk or domesticated elk
 955 products from any place within this state to a place outside this state shall have the appropriate
 956 brand inspection certificate in his or her possession.

957 (2) A brand inspection is required before any domesticated elk is slaughtered, pursuant

958 to Section [4-24-13](#).

959 Section 31. Section **4-39-401** is amended to read:

960 **4-39-401. Escape of domesticated elk -- Liability.**

961 (1) It is the owner's responsibility to try to capture any domesticated elk that may have
962 escaped.

963 (2) The escape of a domesticated elk shall be reported immediately to the [~~state~~
964 ~~veterinarian or a brand inspector of the Department of Agriculture who~~] department that shall
965 notify the Division of Wildlife Resources.

966 (3) If the domesticated elk is not recovered within 72 hours of the escape, the
967 [~~Department of Agriculture~~] department, in conjunction with the Division of Wildlife
968 Resources, shall take whatever action is necessary to resolve the problem.

969 (4) The owner shall reimburse the state or a state agency for any reasonable recapture
970 costs that may be incurred in the recapture or destruction of the animal.

971 (5) Any escaped domesticated elk taken by a licensed hunter in a manner which
972 complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the
973 Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the
974 state, nor a state agency shall be liable to the owner for the killing.

975 (6) The owner shall be responsible to contain the domesticated elk to ensure that there
976 is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk
977 is protected.

978 Section 32. Section **4-41-103** is amended to read:

979 **4-41-103. Industrial hemp -- Agricultural and academic research.**

980 (1) The department may grow or cultivate industrial hemp for the purpose of
981 agricultural or academic research.

982 (2) The department shall certify a higher education institution to grow or cultivate
983 industrial hemp for the purpose of agricultural or academic research if the higher education
984 institution submits to the department:

985 (a) the location where the higher education institution intends to grow or cultivate
986 industrial hemp;

987 (b) the higher education institution's research plan; and

988 (c) the name of an employee of the higher education institution who will supervise the

989 industrial hemp growth, cultivation, and research.

990 (3) The department shall maintain a list of each industrial hemp certificate holder.

991 (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
992 Administrative Rulemaking Act, to ensure any industrial hemp project meets the standards of
993 an agricultural pilot project, as defined by Section 7606 of the U.S. Agricultural Act of 2014.

994 (5) The department may set a fee for the application of an industrial hemp certificate.

995 Section 33. **Repealer.**

996 This bill repeals:

997 Section **4-36-1, Compact enacted and entered into.**

998 Section **4-36-2, Cooperation with Pest Control Insurance Fund.**

999 Section **4-36-3, Filing of compact.**

1000 Section **4-36-4, Compact administrator.**

1001 Section **4-36-5, Applications for assistance.**

1002 Section **4-36-6, Disposition of money from compact insurance fund.**

1003 Section **4-36-7, Executive head defined.**

Legislative Review Note
Office of Legislative Research and General Counsel