

SJ Quinney College of Law, University of Utah

Utah Law Digital Commons

Utah Code Annotated 1943-1995

1995

Title 04 Chapter 35-38: Insect to Horse - 1995

Utah Code Annotated

Follow this and additional works at: <https://dc.law.utah.edu/uca>

The Utah Code Annotated digital collection, hosted by Digital Commons, is brought to you for free and open access by the James E. Faust Law Library at the S.J. Quinney College of Law. Funds for this project have been provided by the Institute of Museum and Library Services through the Library Services and Technology Act and are administered by the Utah State Library Division. For more information, please contact valeri.craigle@law.utah.edu. Reprinted with permission. Copyright 2020 LexisNexis. All rights reserved.

Recommended Citation

Utah Code Annotated Title 4-35 (Michie, 1995)

This Book is brought to you for free and open access by Utah Law Digital Commons. It has been accepted for inclusion in Utah Code Annotated 1943-1995 by an authorized administrator of Utah Law Digital Commons. For more information, please contact valeri.craigle@law.utah.edu.

4-34-6. Sale or use of donations by employee of public agency or charity prohibited.

An employee of a non-profit charitable organization or of a public agency may not sell, offer for sale, use, or consume any agricultural product donated or distributed under this chapter.

History: L. 1981, ch. 70, § 6; 1986, ch. 178, § 3; 1990, ch. 157, § 14.

CHAPTER 35

INSECT INFESTATION EMERGENCY CONTROL ACT

Section		Section	
4-35-1.	Short title.	4-35-6.	Money deposited as dedicated credits — Balance nonlapsing — Matching funds allowed.
4-35-2.	Definitions.	4-35-7.	Notice to owner or occupant — Corrective action required — Directive issued by department — Costs — Owner or occupant may prohibit spraying.
4-35-3.	Decision and Action Committee created — Members — How appointed — Duties of committee — Per diem and expenses allowed.	4-35-8.	Persons and activities exempt from civil liability.
4-35-4.	Commissioner to declare emergency — Powers of commissioner in emergency.	4-35-9.	Department to adopt rules.
4-35-5.	Commissioner to act upon certification by committee — Deposit required.	4-35-10.	Repealed.

4-35-1. Short title.

This chapter is known as the "Insect Infestation Emergency Control Act."

History: C. 1953, 4-35-1, enacted by L. 1985, ch. 133, § 1.

COLLATERAL REFERENCES

Am. Jur. 2d. — 3 Am. Jur. 2d Agriculture §§ 42 to 51. **C.J.S.** — 3 C.J.S. Agriculture §§ 83 to 104.

4-35-2. Definitions.

As used in this chapter:

- (1) "Commissioner" means the Commissioner of Agriculture.
- (2) "Committee" means the Decision and Action Committee created by and established under this chapter.
- (3) "Department" means the Department of Agriculture.
- (4) "Insect" means, but is not limited to, grasshopper, range caterpillar, mormon cricket, apple maggot, cherry fruit fly, plum curculio, and cereal leaf beetle.

History: C. 1953, 4-35-2, enacted by L. 1985, ch. 133, § 1.

4-35-3. Decision and Action Committee created — Members — How appointed — Duties of committee — Per diem and expenses allowed.

(1) There is created the Decision and Action Committee which consists of not fewer than six members. One member is the commissioner and one member is appointed to represent the department. The remaining members of the committee are appointed by the commissioner on an ad hoc basis as necessary from persons directly affected by and involved in the current insect infestation emergency.

(2) The committee shall:

(a) establish a system of priorities for any insect infestation emergency; and

(b) certify to the commissioner any area which requires the establishment of an insect control district in areas of infestation and in which a simple majority of the landowners and lessees whose total production exceeds 50% of the production in that area has agreed to pay proportionate shares of the costs of controlling the insects infesting the area.

(3) Committee members, other than the commissioner and the member from the department, are entitled to per diem and expenses incurred in the performance of their duties at the rates established by the director of the Division of Finance under Sections 63A-3-106 and 63A-3-107.

History: C. 1953, 4-35-3, enacted by L. 1985, ch. 133, § 1; 1993, ch. 4, § 7; 1993, ch. 212, § 5.

Amendment Notes. — The 1993 amendment by ch. 4, effective May 3, 1993, changed the section citation in Subsection (3).

The 1993 amendment by ch. 212, effective May 3, 1993, added "and" at the end of Subsec-

tion (2)(a) and substituted the language beginning "their duties at the rates established" for "in accordance with Section 63-2-15" in Subsection (3).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

4-35-4. Commissioner to declare emergency — Powers of commissioner in emergency.

(1) The commissioner with the consent of the governor may declare that an insect infestation emergency situation exists which jeopardizes property and resources, and designate the area or areas affected.

(2) The commissioner is authorized subject to the requirements of Section 4-35-5 to direct all emergency measures the commission considers necessary to alleviate the emergency condition. The commissioner shall:

(a) utilize equipment, supplies, facilities, personnel, and other available resources;

(b) enter into contracts for the acquisition, rental, or hire of equipment, services, materials, and supplies;

(c) accept assistance, services, and facilities offered by federal and local governmental units or private agencies; and

(d) accept on behalf of the state the provisions and benefits of acts of Congress designated to provide assistance.

History: C. 1953, 4-35-4, enacted by L.
1985, ch. 133, § 1.

4-35-5. Commissioner to act upon certification by committee — Deposit required.

(1) The commissioner initiates operations to control the insect infestation in the designated area or areas:

- (a) upon certification by the committee under Subsection 4-35-4(2); and
- (b) upon deposit of the owner's and lessee's projected proportionate share of the costs.

(2) The commissioner and the members of the committee may suspend or terminate control operations upon a determination that the operations will not significantly reduce the insect population in the designated emergency area.

History: C. 1953, 4-35-5, enacted by L.
1985, ch. 133, § 1.

4-35-6. Money deposited as dedicated credits — Balance nonlapsing — Matching funds allowed.

All money received by the state under this chapter is deposited by the Department of Agriculture as dedicated credits for the purpose of insect control with the state. Any unexpended balance at the end of a fiscal year is nonlapsing. This money may be used as matching funds for (1) participation in programs of the United States Department of Agriculture, and (2) in contracts with private property owners who own croplands contiguous to infested public rangelands.

History: C. 1953, 4-35-6, enacted by L.
1985, ch. 133, § 1; 1986, ch. 15, § 1.

4-35-7. Notice to owner or occupant — Corrective action required — Directive issued by department — Costs — Owner or occupant may prohibit spraying.

(1) The department or an authorized agent of the department shall notify the owner or occupant of the problem and the available alternatives to remedy the problem. The owner or occupant must take corrective action within 30 days.

(2) If the owner or occupant fails to take corrective action under Subsection (1), the department may issue a directive for corrective action which must be taken within 15 days. If the owner or occupant fails to act within the required time, the department shall take the necessary action. The department may recover costs incurred for controlling an insect infestation emergency from the owner or occupant of the property on whose property corrective action was taken.

(3) Owners or occupants of property may prohibit spraying by presenting an affidavit from their attending physician to the department which states that the spraying as planned is a danger to their health. The department shall

provide the owner or occupant with alternatives to spraying which will abate the infestation.

History: C. 1953, 4-35-7, enacted by L. 1985, ch. 133, § 1; 1990, ch. 157, § 15.

4-35-8. Persons and activities exempt from civil liability.

No state agency or its officers and employees nor the officers, agents, employees, or representatives of any governmental or private entity acting under the authority granted by this chapter is liable for claims arising out of the reasonable exercise or performance of duties and responsibilities under this chapter.

History: C. 1953, 4-35-8, enacted by L. 1985, ch. 133, § 1.

4-35-9. Department to adopt rules.

The department is authorized to adopt and enforce rules to administer this chapter.

History: C. 1953, 4-35-9, enacted by L. 1985, ch. 133, § 1.

Cross-References. — Administrative rulemaking, Title 63, Chapter 46a.

4-35-10. Repealed.

Repeals. — Laws 1990, ch. 157, § 16 repeals § 4-35-10, as enacted by L. 1985, ch. 133, § 1, making violation of this chapter a misdemeanor, effective April 23, 1990.

**CHAPTER 36
PEST CONTROL COMPACT**

Section		Section	
4-36-1.	Compact enacted and entered into.	4-36-5.	Applications for assistance.
4-36-2.	Cooperation with Pest Control Insurance Fund.	4-36-6.	Disposition of money from compact insurance fund.
4-36-3.	Filing of compact.	4-36-7.	Executive head defined.
4-36-4.	Compact administrator.		

4-36-1. Compact enacted and entered into.

The "Pest Control Compact" is enacted into law and entered into with all other jurisdictions legally joining therein, in the form substantially as follows:

PEST CONTROL COMPACT

Article I
Findings

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately \$10,000,000

from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic, and economic factors, each state may be affected differently by particular species of pests, but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crops and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II Definitions

As used in this compact, unless the context clearly requires a different construction:

(a) "state" means a state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(b) "requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states;

(c) "responding state" means a state requested to undertake or intensify the measures referred to in subdivision (b) of this Article;

(d) "pest" means an invertebrate animal, pathogen, parasitic plant, or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses, or other plants of substantial value;

(e) "insurance fund" means the pest control insurance fund established pursuant to this compact;

(f) "governing board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact; and

(g) "executive committee" means the committee established pursuant to Article V (e) of this compact.

Article III The Insurance Fund

There is established the "Pest Control Insurance Fund" for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and

obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provisions of this compact.

Article IV

The Insurance Fund, Internal Operations and Management

(a) The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this compact shall be considered the actions of the insurance fund.

(b) The members of the governing board shall be entitled to one vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of voters on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

(c) The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

(d) The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary, and a treasurer. The chairman may not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the governing board. The governing board shall make provision for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

(e) Irrespective of the civil service, personnel, or other merit system laws of any party states, the executive director, or if there is no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The insurance fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.

(g) The insurance fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, utilize, and dispose of the same. Any donation, gift, or grants accepted by the governing board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the insurance fund. Such report shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The insurance fund shall publish its bylaws in convenient form and

shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The insurance fund annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. The insurance fund may make such additional reports as it may consider desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the insurance fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V

Compact and Insurance Fund Administration

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in his state; and

2. Represent his state on the governing board of the insurance fund.

(b) If the laws of the United States specifically so provide, or if administrative provisions are made therefore within the Federal Government, the United States may be represented on the governing board of the insurance fund by not to exceed three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or on the executive committee thereof.

(c) The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee, or a majority of the membership of the governing board.

(d) At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee thereof shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

(e) The executive committee shall be composed of the chairman of the governing board and four additional members of the governing board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, one such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least four members of such committee are present and vote in favor thereof. Necessary expenses of each of the five members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

Article VI
Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.
2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may require the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.
2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.
3. A statement of the extent of the present and projected program of the requesting state and its subdivision, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefore, in connection with the eradication, control, or prevention of introduction of the pest concerned.
4. Proof that the expenditures being made or budgeted as detailed in Item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in Item 3 constitutes a normal level of pest control activity.
5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the insurance fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.
6. Such other information as the governing board may require consistent with the provisions of this compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the executive committee shall upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the insurance fund pursuant to an application of a requesting state, the insurance fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The insurance fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states, and any other entities concerned.

Article VII Advisory and Technical Committees

The governing board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof, may meet with and participate in its deliberations. Upon request of the governing board or executive committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee

may receive and consider the same; provided that any participant in a meeting of the governing board or executive committee, held pursuant to Article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting, if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

Article VIII Relations with Nonparty Jurisdictions

(a) A party state may make application for assistance from the insurance fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state except as provided in this Article.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to Article VI (d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in the state and the value of the expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it considers appropriate with respect to the expenditure of moneys from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may consider necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

Article IX Finance

(a) The insurance fund shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriation shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the insurance fund shall be maintained in two accounts to be designated respectively as the "operating account" and the

"claims account." The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing two-year period. The claims account shall contain all moneys not included in the operating account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of three years. At any time when the claims account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget request on a pro rata basis in such manner as to keep the claims account within the maximum limit. Any moneys in the claims account by virtue of conditional donations, grants, or gifts shall be included in calculations made pursuant to this paragraph only to the extent that moneys are available to meet demands arising out of claims.

(d) The insurance fund shall not pledge the credit of any party state. The insurance fund may meet any of its obligations in whole or in part with moneys available to it under Article IV (g) of this compact, provided that the governing board takes specific action setting aside moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of moneys available to it under Article IV (g) hereof, the insurance fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The insurance fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

(f) The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the insurance fund.

Article X

Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of withdrawal.

Article XI

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to

any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History: C. 1953, 4-36-1, enacted by L.
1985, ch. 191, § 1.

COLLATERAL REFERENCES

Am. Jur. 2d. — 3 Am. Jur. 2d Agriculture C.J.S. — 3 C.J.S. Agriculture §§ 83 to 104.
§§ 42 to 51.

4-36-2. Cooperation with Pest Control Insurance Fund.

Consistent with law and within available appropriations, the departments, agencies, and officers of this state may cooperate with the Insurance Fund established by the Pest Control Compact.

History: C. 1953, 4-36-2, enacted by L.
1985, ch. 191, § 1.

4-36-3. Filing of compact.

Pursuant to Article IV (h) of the compact, copies of bylaws and amendments to the compact shall be filed with the Department of Agriculture.

History: C. 1953, 4-36-3, enacted by L.
1985, ch. 191, § 1.

4-36-4. Compact administrator.

The compact administrator for this state shall be the commissioner of the Department of Agriculture.

History: C. 1953, 4-36-4, enacted by L.
1985, ch. 191, § 1.

4-36-5. Applications for assistance.

Within the meaning of Article VI (b) or VIII (a), a request or application for assistance from the Insurance Fund may be made by the compact administrator for this state, whenever in the compact administrator's judgment the conditions qualifying this state for assistance exist and it would be in the best interest of this state to make a request.

History: C. 1953, 4-36-5, enacted by L.
1985, ch. 191, § 1.

4-36-6. Disposition of money from compact insurance fund.

The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified under this compact shall have credited to the appropriate account in the state treasury the amount of any payments made to this state to defray the cost of the program, or any part thereof, or as reimbursement thereof.

History: C. 1953, 4-36-6, enacted by L. 1985, ch. 191, § 1.

4-36-7. Executive head defined.

As used in the compact, with reference to this state, "executive head" means the governor.

History: C. 1953, 4-36-7, enacted by L. 1985, ch. 191, § 1.

CHAPTER 37 AQUACULTURE ACT

Revision of Chapter. — Laws 1994, ch. 153 revised this chapter by changing the title from "Aquaculture Industry," renumbering former §§ 4-37-1 to 4-37-4 as §§ 4-37-102 to 4-37-105, and enacting the rest of the new chapter.

Section		Section	
4-37-1 to 4-37-4.	Renumbered.		
	Part 1		
	General Provisions		
4-37-101.	Title.		
4-37-102.	Purpose statement — Aquaculture considered a branch of agriculture.	4-37-202.	quired to operate an aquaculture facility.
4-37-103.	Definitions.	4-37-203.	Acquisition of aquatic animals for use in aquaculture facilities.
4-37-104.	Department's responsibilities.	4-37-204.	Transportation of aquatic animals to or from aquaculture facilities.
4-37-105.	Responsibilities of Wildlife Board and Division of Wildlife Resources.		Sale of aquatic animals from aquaculture facilities.
4-37-106.	Cooperative agreements.		Part 3
4-37-107.	Advisory council.		Fee Fishing Facilities
4-37-108.	Prohibited activities.	4-37-301.	Certificate of registration required to operate a fee fishing facility.
4-37-109.	Department to make rules — Transition period.	4-37-302.	Acquisition of aquatic animals for use in fee fishing facilities.
4-37-110.	Inspection of records and facilities.	4-37-303.	Transportation of live aquatic animals to fee fishing facilities.
4-37-111.	Prohibited sites.	4-37-304.	Sale or transfer of live aquatic animals from fee fishing facilities prohibited.
4-37-112.	Screens.	4-37-305.	Fishing license not required to fish at fee fishing facilities — Transportation of dead fish.
	Part 2		Part 4
	Aquaculture Facilities		Importation of Aquatic Animals
4-37-201.	Certificate of registration re-	4-37-401.	Certificate of registration re-

<p>Section 4-37-402. quired to import aquatic animals for aquaculture or fee fishing facilities. Documentation required to import aquatic animals.</p>	<p>Section 4-37-502. Inspections — Qualifications of inspectors. 4-37-503. Fish Health Board — Transition period.</p>
<p>Part 5 Health Approval</p>	<p>Part 6 Enforcement and Penalties</p>
<p>4-37-501. Health approval — Exceptions.</p>	<p>4-37-601. Enforcement and penalties. 4-37-602. Adjudicative proceedings.</p>

4-37-1 to 4-37-4. Renumbered.

Renumbered. — Laws 1994, ch. 153, §§ 2 to 5 renumber former §§ 4-37-1 to 4-37-4, relating to aquaculture industry, as §§ 4-37-102 to 4-37-105, effective July 1, 1994.

PART 1
GENERAL PROVISIONS

4-37-101. Title.

This chapter is known as the “Aquaculture Act.”

History: C. 1953, 4-37-101, enacted by L. 1994, ch. 153, § 1.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-102. Purpose statement — Aquaculture considered a branch of agriculture.

(1) The Legislature declares that it is in the interest of the people of the state to encourage the practice of aquaculture, while protecting the public fishery resource, in order to augment food production, expand employment, promote economic development, and protect and better utilize the land and water resources of the state.

(2) The Legislature further declares that aquaculture should be considered a branch of the agricultural industry of the state for purposes of any laws that apply to or provide for the advancement, benefit, or protection of the agricultural industry within the state.

History: C. 1953, 4-37-1, enacted by L. 1987, ch. 127, § 2; renumbered by L. 1994, ch. 153, § 2.

ment, effective July 1, 1994, renumbered this section, which formerly appeared as § 4-37-1, and inserted “while protecting the public fishery resource” in Subsection (1).

Amendment Notes. — The 1994 amend-

4-37-103. Definitions.

As used in this chapter:

- (1) “Aquaculture” means the controlled cultivation of aquatic animals.
- (2) (a) “Aquaculture facility” means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture. “Aquaculture facility” does not include any public aquaculture facility or fee fishing facility.

(b) Structures that are separated by more than ½ mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.

(3) (a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian.

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

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

(5) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S. Fish and Wildlife Service, a school, or an institution of higher education.

(6) "Public fishery resource" means fish produced in public aquaculture facilities and wild and free ranging populations of fish in the surface waters of the state.

History: C. 1953, 4-37-2, enacted by L. 1987, ch. 127, § 3; renumbered by L. 1994, ch. 153, § 3.

Amendment Notes. — The 1994 amendment, effective July 1, 1994, renumbered this section, which formerly appeared as § 4-37-2;

rewrote the definition of "aquaculture," which had read "the cultivation and husbandry of aquatic organisms by a person in the private sector"; and added the other definitions, making related changes.

4-37-104. Department's responsibilities.

The department is responsible for:

- (1) the marketing and promotion of the state's aquaculture industry;
- (2) enforcing laws and rules made by the Wildlife Board governing species of aquatic animals which may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities;
- (3) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and
- (4) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to aquatic wildlife, other animals, and humans.

History: C. 1953, 4-37-3, enacted by L. 1987, ch. 127, § 4; renumbered by L. 1994, ch. 153, § 4.

Amendment Notes. — The 1994 amendment, effective July 1, 1994, renumbered this

section, which formerly appeared as § 4-37-3; rewrote the provisions as introductory language and Subsection (1); and added Subsections (2) to (4).

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

The Wildlife Board and Division of Wildlife Resources are responsible for:

- (1) determining the species of aquatic animals which may be imported into, possessed, and transported within the state;

(2) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities; and

(3) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to aquatic wildlife, other animals, and humans.

History: C. 1953, 4-37-4, enacted by L. 1987, ch. 127, § 5; renumbered by L. 1994, ch. 153, § 5.

Amendment Notes. — The 1994 amendment, effective July 1, 1994, renumbered this section, which formerly appeared as § 4-37-4,

and rewrote the provisions, which previously read: "The Division of Wildlife Resources is the principal state agency responsible for the control of fish species and disease in the state's aquaculture industry."

4-37-106. Cooperative agreements.

In fulfilling their respective responsibilities under this chapter, the department, Division of Wildlife Resources, and Wildlife Board may make memorandums of understanding or enter into other agreements for mutual cooperation.

History: C. 1953, 4-37-106, enacted by L. 1994, ch. 153, § 6.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-107. Advisory council.

(1) The department shall establish an advisory council to give advice and make recommendations on policies and rules adopted pursuant to this chapter.

(2) The advisory council shall consist of eight members appointed by the commissioner of agriculture as follows:

(a) two members, recommended by the executive director of the Department of Natural Resources, shall represent the Department of Natural Resources;

(b) two members shall represent the Department of Agriculture;

(c) two members shall represent the aquaculture industry; and

(d) two members, recommended by the executive director of the Department of Natural Resources from a list of candidates submitted by the Division of Wildlife Resources, shall represent public fishing interests.

(3) A majority of the advisory council constitutes a quorum. A quorum is necessary for the council to act.

History: C. 1953, 4-37-107, enacted by L. 1994, ch. 153, § 7.

§ 33 makes the act effective on July 1, 1994.

Cross-References. — Department of Natural Resources, § 63-34-3 et seq.

4-37-108. Prohibited activities.

(1) Except as provided in this chapter, in the rules of the department made pursuant to Section 4-37-109, rules of the Fish Health Board made pursuant to Section 4-37-503, or in the rules of the Wildlife Board governing species of aquatic animals which may be imported into, possessed, or transported within the state, a person may not:

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

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

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

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

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

History: C. 1953, 4-37-108, enacted by L. 1994, ch. 153, § 8.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-109. Department to make rules — Transition period.

(1) The department shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, after considering the recommendations of the advisory council:

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

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

(c) setting standards for health inspections, except as provided by Section 4-37-503.

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

(3) The provisions of the proclamation of the Wildlife Board for "Aquaculture and Fish Stocking" which pertain to aquaculture, public aquaculture, and fee fishing facilities and do not conflict with this chapter shall remain in effect until the department makes rules to replace those provisions of the proclamation.

History: C. 1953, 4-37-109, enacted by L. 1994, ch. 153, § 9.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

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

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

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

(b) certificate of registration; and

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

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

History: C. 1953, 4-37-110, enacted by L. 1994, ch. 153, § 10.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-111. Prohibited sites.

Aquaculture and fee fishing facilities may not be developed on:

- (1) natural lakes;
- (2) natural flowing streams; or
- (3) reservoirs constructed on natural stream channels.

History: C. 1953, 4-37-111, enacted by L. 1994, ch. 153, § 11.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-112. Screens.

(1) Each aquaculture and fee fishing facility shall be equipped with screening or another device to prevent the movement of fish into or out of the facility.

(2) The department may conduct site inspections to assure compliance with Subsection (1).

History: C. 1953, 4-37-112, enacted by L. 1994, ch. 153, § 12.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

PART 2**AQUACULTURE FACILITIES****4-37-201. Certificate of registration required to operate an aquaculture facility.**

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

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

(b) The fee shall be established by the department in accordance with Section 63-38-3.

(3) The department shall coordinate with the Division of Wildlife Resources: (a) on the suitability of the proposed site relative to potential impacts on adjacent aquatic wildlife populations; and

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

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

History: C. 1953, 4-37-201, enacted by L. 1994, ch. 153, § 13.

§ 63-38-3.2 following 1994 amendments to fee-setting procedures in Title 63, Chapter 38.

Compiler's Notes. — The reference in Subsection (2)(b) to § 63-38-3 should probably be to

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

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

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

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

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

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

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

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

(b) date of transaction; and

(c) number and weight by species.

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

History: C. 1953, 4-37-202, enacted by L. 1994, ch. 153, § 14.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

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

(1) Any person holding a certificate of registration for an aquaculture facility may transport the live aquatic animals specified on the certificate of registration to the facility or to any person who has been issued a certificate of registration to possess those aquatic animals.

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

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

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

(c) name, address, and certificate of registration number of the destination.

History: C. 1953, 4-37-203, enacted by L. 1994, ch. 153, § 15.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

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

(1) A person holding a certificate of registration for an aquaculture facility may take aquatic animals as approved on the certificate of registration from the facility at any time and offer them for sale; however, live aquatic animals may be sold within Utah only to a person who has been issued a certificate of registration to possess those aquatic animals.

(2) Aquatic animals sold or transferred by the owner or operator of an aquaculture facility must be accompanied by the seller's receipt that contains the following information:

(a) date of transaction;

(b) name, address, certificate of registration number, health approval number, and signature of seller;

(c) number and weight by species;

- (d) name and address of the receiver; and
 - (e) for sales within Utah, the receiver's certificate of registration number.
- (3) (a) A person holding a certificate of registration for an aquaculture facility must submit to the department an annual report of each sale of live aquatic animals or each transfer of live aquatic animals to another aquaculture facility.
- (b) The report must contain the following information:
- (i) name, address, and certificate of registration number of the seller or supplier;
 - (ii) number and weight by species;
 - (iii) date of sale or transfer; and
 - (iv) name, address, phone number, and certificate of registration number of the receiver.
- (c) The report must be submitted to the department before a certificate of registration is renewed or a subsequent certificate of registration is issued.

History: C. 1953, 4-37-204, enacted by L. 1994, ch. 153, § 16.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

PART 3

FEE FISHING FACILITIES

4-37-301. Certificate of registration required to operate a fee fishing facility.

- (1) A person may not operate a fee fishing facility without first obtaining a certificate of registration from the department.
- (2) (a) Each application for a certificate of registration to operate a fee fishing facility shall be accompanied by a fee.
 - (b) The fee shall be established by the department in accordance with Section 63-38-3.
- (3) The department shall coordinate with the Division of Wildlife Resources:
 - (a) on the suitability of the proposed site relative to potential impacts on adjacent aquatic wildlife populations; and
 - (b) in determining which species the holder of the certificate of registration may possess or transport to or stock into the facility.
- (4) The department shall list on the certificate of registration the species which the holder may possess or transport to or stock into the facility.
- (5) A person holding a certificate of registration for an aquaculture facility may also operate a fee fishing facility without obtaining an additional certificate of registration, if the fee fishing facility:
 - (a) is in a body of water meeting the criteria of Section 4-37-111 which is connected with the aquaculture facility;
 - (b) contains only those aquatic animals specified on the certificate of registration for the aquaculture facility; and
 - (c) is designated on the certificate of registration for the aquaculture facility.

History: C. 1953, 4-37-301, enacted by L. 1994, ch. 153, § 17.

Compiler's Notes. — The reference in Subsection (2)(b) to § 63-38-3 should probably be to

§ 63-38-3.2 following 1994 amendments to fee-setting procedures in Title 63, Chapter 38.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

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

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

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

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

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

(2) (a) A person holding a certificate of registration for a fee fishing facility must submit to the department an annual report of all live fish purchased or acquired.

(b) The report must contain the following information:

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

(ii) number and weight by species;

(iii) date of purchase or transfer; and

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

(c) The report must be submitted to the department before a certificate of registration is renewed or subsequent certificate of registration is issued.

History: C. 1953, 4-37-302, enacted by L. 1994, ch. 153, § 18.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

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

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

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

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

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

(c) name, address, and certificate of registration number of the destination.

History: C. 1953, 4-37-303, enacted by L. 1994, ch. 153, § 19.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-304. Sale or transfer of live aquatic animals from fee fishing facilities prohibited.

Live aquatic animals may not be sold or transferred from fee fishing facilities.

History: C. 1953, 4-37-304, enacted by L. 1994, ch. 153, § 20.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-305. Fishing license not required to fish at fee fishing facilities — Transportation of dead fish.

- (1) A fishing license is not required to take fish from fee fishing facilities.
- (2) To transport dead fish from fee fishing facilities the fish must be accompanied by the seller's receipt containing the following information:
 - (a) species and number of fish;
 - (b) date caught;
 - (c) certificate of registration number of the fee fishing facility; and
 - (d) name, address, and telephone number of the seller.

History: C. 1953, 4-37-305, enacted by L. 1994, ch. 153, § 21.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

PART 4

IMPORTATION OF AQUATIC ANIMALS

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

- (1) A person may not import aquatic animals classified as controlled species by rules of the Wildlife Board into the state for use in aquaculture or fee fishing facilities without first obtaining a certificate of registration from the department.
- (2) The department shall:
 - (a) coordinate with the Division of Wildlife Resources in determining which species the holder may import into the state; and
 - (b) specify those species on the certificate of registration.
- (3) A person may not import species into the state that are not listed on the certificate of registration.

History: C. 1953, 4-37-401, enacted by L. 1994, ch. 153, § 22.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

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

Any aquatic animals classified as controlled species by rules of the Wildlife Board that are imported into the state for use in aquaculture or fee fishing facilities must be accompanied by documentation indicating the following:

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

History: C. 1953, 4-37-402, enacted by L. 1994, ch. 153, § 23.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

PART 5

HEALTH APPROVAL

4-37-501. Health approval — Exceptions.

- (1) Except as provided in Subsections (2) and (3), live aquatic animals may be acquired, purchased, sold, or transferred only from sources which have been health approved by the department and assigned a health approval number.
- (2) (a) The department shall waive the health approval requirement for wild populations of aquatic animals pursuant to guidelines of the Fish Health Board.
 - (b) The Fish Health Board shall develop guidelines for waiving the health approval requirement for wild populations of aquatic animals which:
 - (i) are listed by the federal government as threatened or endangered;
 - (ii) are listed by the Division of Wildlife Resources as species of special concern; or
 - (iii) exist in such low numbers that lethal sampling for health approval could threaten the population.
 - (c) When wild populations of aquatic animals are exempted from the health approval requirement, precautions shall be taken to protect other wild populations and any other aquatic animals from undetected pathogens.
- (3) Subsection (1) does not apply to the sale or transfer of live aquatic animals to an out-of-state destination approved by the receiving state.

History: C. 1953, 4-37-501, enacted by L. 1994, ch. 153, § 24.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-502. Inspections — Qualifications of inspectors.

- (1) Health approval shall be based upon inspections carried out in accordance with standards specified by the department and rules of the Fish Health Board made pursuant to Section 4-37-503.

(2) (a) The inspections must be done by an individual who has received certification from the American Fisheries Society as a fish health inspector.

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

(3) To receive a health approval number, inspection reports and other evidence of the disease status of a source facility must be submitted to the department.

History: C. 1953, 4-37-502, enacted by L. 1994, ch. 153, § 25.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

4-37-503. Fish Health Board — Transition period.

(1) There is created within the department the Fish Health Board which shall be responsible for determining:

(a) the pathogens for which inspection is required to receive health approval; and

(b) the pathogens which may not be present to receive health approval.

(2) (a) The Fish Health Board shall consist of six members, three of whom shall be appointed by the commissioner of the Department of Agriculture and three of whom shall be appointed by the executive director of the Department of Natural Resources from a list of candidates submitted by the Division of Wildlife Resources.

(b) The state veterinarian shall be among the members appointed by the commissioner of the Department of Agriculture and shall serve as chair of the board.

(c) The chief fish pathologist of the Division of Wildlife Resources shall be among the members appointed by the executive director of the Department of Natural Resources.

(d) The term of office of board members shall be four years.

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

(f) (i) A majority of the board members constitutes a quorum. A quorum is necessary for the board to act.

(ii) Approval of a motion to list or delist a pathogen requires at least four votes.

(g) Board members who are not employed by the state shall receive per diem and expenses as provided by rules of the Division of Finance made under Sections 63A-3-106 and 63A-3-107.

(3) (a) The board shall make rules consistent with its responsibilities specified in Subsection (1).

(b) The provisions of the proclamation of the Wildlife Board for "Aquaculture and Fish Stocking" that pertain to pathogens for which inspection is necessary and which may not be present shall remain in effect until the Fish Health Board enacts rules to replace those provisions.

History: C. 1953, 4-37-503, enacted by L. 1994, ch. 153, § 26.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

PART 6**ENFORCEMENT AND PENALTIES****4-37-601. Enforcement and penalties.**

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

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

History: C. 1953, 4-37-601, enacted by L. 1994, ch. 153, § 27. § 33 makes the act effective on July 1, 1994.

Effective Dates. — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

4-37-602. Adjudicative proceedings.

Adjudicative proceedings under this chapter shall be conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

History: C. 1953, 4-37-602, enacted by L. 1994, ch. 153, § 28. **Effective Dates.** — Laws 1994, ch. 153, § 33 makes the act effective on July 1, 1994.

CHAPTER 38**UTAH HORSE REGULATION ACT**

Section		Section	
4-38-1.	Short title.	4-38-10.	Race meets — Licenses — Fairs.
4-38-2.	Definitions.	4-38-11.	Stimulation or retardation of animals prohibited — Tests.
4-38-3.	Utah Horse Racing Commission.	4-38-12.	Bribery and touting prohibited.
4-38-4.	Powers and duties of commission.	4-38-13.	Race meet escrow.
4-38-5.	Executive director.	4-38-14.	Hearings.
4-38-6.	Public records.	4-38-15.	Gambling disclaimer.
4-38-7.	Licenses — Fees — Duties of licensees.	4-38-16.	Horse Racing Account created — Contents — Use of account monies.
4-38-8.	Stewards.		
4-38-9.	Investigation — License denial and suspension — Grounds for revocation — Fines.		

4-38-1. Short title.

This chapter shall be known as the "Utah Horse Regulation Act."

History: C. 1953, 4-38-1, enacted by L. 1992, ch. 296, § 1. became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

Effective Dates. — Laws 1992, ch. 296

COLLATERAL REFERENCES

Am. Jur. 2d. — 4 Am. Jur. 2d Amusements and Exhibitions § 46.

4-38-2. Definitions.

As used in this chapter:

- (1) "Commission" means the Utah Horse Racing Commission created by this chapter.
- (2) "Executive director" means the executive director of the commission.
- (3) "Mixed meet" means a race meet that includes races by more than one breed of horse.
- (4) "Race meet" means the entire period of time for which a licensee has been approved by the commission to hold horse races.
- (5) "Racetrack facility" means a racetrack within Utah approved by the commission for the racing of horses, including the track surface, grandstands, clubhouse, all animal housing and handling areas, and other areas in which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials.
- (6) "Recognized race meet" means a race meet recognized by a national horse breed association.
- (7) "Utah bred horse" means a horse that is sired by a stallion standing in Utah at the time the dam was bred.

History: C. 1953, 4-38-2, enacted by L. 1992, ch. 296, § 2; 1993, ch. 64, § 1.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, added "Racing" in Subsection (1) and substituted "a stallion standing in Utah at the time the dam was bred"

for "an accredited Utah stallion" in Subsection (7).

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-3. Utah Horse Racing Commission.

- (1) (a) There is created within the Department the Utah Horse Racing Commission.
- (b) (i) The commission shall consist of five members who shall be U.S. citizens, Utah residents, and qualified voters of Utah.
- (ii) Each member shall have an interest in horse racing.
- (c) (i) The members of the commission shall be appointed by the governor with the consent of the Senate.
- (ii) The governor shall appoint commission members from a list of nominees submitted by the Commissioner of Agriculture.
- (d) (i) The members of the commission shall be appointed to four-year terms, except that the original members shall be appointed within 30 days after the effective date of this chapter, two of whom shall be appointed for terms expiring December 31, 1992, two for terms expiring December 31, 1994, and one for a term expiring December 31, 1996.
- (ii) A commission member may not serve more than two consecutive terms.

(e) The governor shall make the appointments so that a resident of each of Utah's three congressional districts is a member of the commission at all times.

(f) Each member shall hold office until his or her successor is appointed and qualified.

(g) Vacancies on the commission shall be filled by appointment by the governor with the consent of the Senate for the unexpired term.

(h) Any member may be removed from office by the governor for cause after a public hearing. Notice of the hearing shall fix the time and place of the hearing and shall specify the charges. Copies of the notice of the hearing shall be served on the member by mailing it to the member at his last known address at least ten days before the date fixed for the hearing. The governor may designate a hearing officer to preside over the hearing and report his findings to the governor.

(2) (a) The members of the commission shall annually elect a chairperson.

(b) Three members of the commission shall constitute a quorum for the transaction of any business of the commission.

(c) Members of the commission shall receive per diem and expenses as established by the Division of Finance.

(3) All claims and expenditures made under this chapter shall be first audited and passed upon by the commission and when approved shall be paid in the manner provided by law for payment of claims against the state of Utah.

(4) Any member of the commission who has a personal or private interest in any matter proposed or pending before the commission shall publicly disclose this fact to the commission and may not vote on the matter.

(5) Any member of the commission who owns or who has any interest or whose spouse or member of his immediate family has any interest in a horse participating in a race shall disclose that interest and may not participate in any commission decision involving that race.

History: C. 1953, 4-38-3, enacted by L. 1992, ch. 296, § 3; 1993, ch. 64, § 2.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, added "Racing" in Subsection (1)(a), subdivided Subsections (1)(b), (c), and (d), adding Subsections (1)(b)(ii),

(c)(ii), and (d)(ii), and substituted "four-year" for "six-year" in Subsection (1)(d)(i).

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-4. Powers and duties of commission.

(1) The commission shall:

(a) license, regulate, and supervise all persons involved in the racing of horses as provided in this chapter;

(b) license, regulate, and supervise all recognized race meets held in this state under the terms of this chapter;

(c) cause the various places where recognized race meets are held to be visited and inspected at least once a year;

(d) assist in procuring public liability insurance coverage from a private insurance company for those licensees unable to otherwise obtain the insurance required under this chapter;

(e) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to govern race meets, including rules:

(i) to resolve scheduling conflicts and settle disputes among licensees;

(ii) to supervise, discipline, suspend, fine, and bar from events all persons required to be licensed by this chapter; and

(iii) to hold, conduct, and operate all recognized race meets conducted pursuant to this chapter;

(f) determine which persons participating, directly or indirectly, in recognized race meets require licenses;

(g) announce the time, place, and duration of recognized race meets for which licenses shall be required;

(h) establish reasonable fees for all licenses provided for under this chapter; and

(i) prepare and submit a report to the governor and the Legislature on or before December 31 each year containing detailed records of all meetings and of the business transacted in them and all licenses applied for and issued.

(2) The commission may:

(a) grant, suspend, or revoke licenses issued under this chapter;

(b) impose fines as provided in this chapter;

(c) access criminal history record information for all licensees and commission employees; and

(d) exclude from any racetrack facility in this state any person who the commission considers detrimental to the best interests of racing or any person who violates any provisions of this chapter or any rule or order of the commission.

History: C. 1953, 4-38-4, enacted by L. 1992, ch. 296, § 4; 1993, ch. 64, § 3.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, deleted former Subsections (2)(b), (c), and (e), empowering the commission to provide incentives, to license

and to charge registration fees, and to require license applicants be fingerprinted, and made designation changes.

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-5. Executive director.

The commission shall be under the general administrative control of an executive director appointed by the commissioner with the concurrence of the commission. The executive director shall serve at the pleasure of the commissioner.

History: C. 1953, 4-38-5, enacted by L. 1992, ch. 296, § 5.

Effective Dates. — Laws 1992, ch. 296

became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-6. Public records.

All records of the commission shall be subject to Title 63, Chapter 2, Government Records Access and Management Act.

History: C. 1953, 4-38-6, enacted by L. 1992, ch. 296, § 6.

Effective Dates. — Laws 1992, ch. 296

became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-7. Licenses — Fees — Duties of licensees.

(1) The commission may grant licenses for participation in racing and other activities associated with racetracks.

(2) The commission shall establish a schedule of fees for the application for and renewal and reinstatement of all licenses issued under this chapter.

(3) Each person holding a license under this chapter shall comply with this chapter and with all rules promulgated and all orders issued by the commission under this chapter.

(4) Any person who holds a recognized race meet or who participates directly or indirectly in a recognized race meet without being first licensed by the commission as required under this chapter or by the rules of the commission and any person violating any of the provisions of this chapter is guilty of a class A misdemeanor.

History: C. 1953, 4-38-7, enacted by L. 1992, ch. 296, § 7; 1993, ch. 64, § 4.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, in Subsection (1) substituted "participation in racing and other activities associated with racetracks" for a listing of specific participants and in Subsection (2)

deleted the former last sentence, allowing fees to be used in any incentive plan.

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

4-38-8. Stewards.

(1) (a) The commission may delegate authority to enforce its rules and this chapter to three stewards employed by the commission at each recognized race meet. At least one of them shall be selected by the commission.

(b) Stewards shall exercise reasonable and necessary authority as designated by rules of the commission including the following:

(i) enforce rules of the commission;

(ii) rule on the outcome of events;

(iii) evict from an event any person who has been convicted of bookmaking, bribery, or attempts to alter the outcome of any race through tampering with any animal that is not in accordance with this chapter or the rules of the commission;

(iv) levy fines not to exceed \$2,500 for violations of rules of the commission, which fines shall be reported daily and paid to the commission within 48 hours of imposition and notice;

(v) suspend licenses not to exceed one year for violations of rules of the commission, which suspension shall be reported to the commission daily; and

(vi) recommend that the commission impose fines or suspensions greater than permitted by Subsections (iv) and (v).

(2) If a majority of the stewards agree, they may impose fines or suspend licenses.

(3) (a) Any fine or license suspension imposed by a steward may be appealed in writing to the commission within five days after its imposition. The commission may affirm or reverse the decision of a steward or may increase or decrease any fine or suspension.

(b) A fine imposed by the commission under this section or Section 4-38-9 may not exceed \$10,000.

(c) Suspensions of a license may be for any period of time but shall be commensurate with the seriousness of the offense.

History: C. 1953, 4-38-8, enacted by L. 1992, ch. 296, § 8; 1993, ch. 64, § 5.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, added “employed by the commission” and deleted “an employee of and” before “selected” in Subsection (1)(a); substituted “\$2,500” for “\$200” in Subsection (1)(b)(iv); substituted “one year” for “ten days” in Subsection (1)(b)(v); substituted Subsection (2) for former language authorizing only a li-

censed steward or a starter to impose fines or suspensions; deleted “or fine imposed by a starter” after “steward” in Subsection (3)(a); substituted “4-38-9” for “4-38-8” and deleted former language allowing fines in incentive plans in Subsection (3)(b); and made stylistic changes.

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-9. Investigation — License denial and suspension — Grounds for revocation — Fines.

(1) The commission or its board of stewards of a recognized race meet, upon their own motion may, and upon verified complaint in writing of any person shall, investigate the activities of any licensee within the state or any licensed person upon the premises of a racetrack facility.

(2) The commission or board of stewards may fine, suspend a license, or deny an application for a license.

(3) The commission may revoke a license, if the licensee has committed any of the following violations:

(a) substantial or willful misrepresentation;

(b) disregard for or violation of any provisions of this chapter or of any rule promulgated by the commission;

(c) conviction of a felony under the laws of this or any other state or of the United States, a certified copy of the judgment of the court of conviction of which shall be presumptive evidence of the conviction in any hearing held under this section;

(d) fraud, willful misrepresentation, or deceit in racing;

(e) falsification, misrepresentation, or omission of required information in a license application to the commission;

(f) failure to disclose to the commission a complete ownership or beneficial interest in a horse entered to be raced;

(g) misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of racing animals;

(h) failure to comply with any order or rulings of the commission, the stewards, or a racing official pertaining to a racing matter;

(i) ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;

(j) being unqualified by experience or competence to perform the activity permitted by the license possessed or being applied for;

(k) employment or harboring of any unlicensed person on the premises of a racetrack facility;

(l) discontinuance of or ineligibility for the activity for which the license was issued;

(m) being currently under suspension or revocation of a racing license in another racing jurisdiction;

(n) possession on the premises of a racetrack facility of:

- (i) firearms; or
 - (ii) a battery, buzzer, electrical device, or other appliance other than a whip which could be used to alter the speed of a horse in a race or while working out or schooling;
 - (o) possession, on the premises of a racetrack facility, by a person other than a licensed veterinarian of a hypodermic needle, hypodermic syringe, or other similar device that may be used in administering medicine internally in a horse, or any substance, compound items, or combination of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a horse unless specifically authorized by a commission-approved veterinarian;
 - (p) cruelty to or neglect of a horse;
 - (q) offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;
 - (r) causing, attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;
 - (s) entering, or aiding and abetting the entry of, a horse ineligible or unqualified for the race entered;
 - (t) willfully or unjustifiably entering or racing any horse in any race under any name or designation other than the name or designation assigned to the animal by and registered with the official recognized registry for that breed of animal, or willfully setting on foot, instigating, engaging in, or in any way furthering any act by which any horse is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for the breed of animal; or
 - (u) racing at a racetrack facility without having that horse registered to race at that racetrack facility.
- (4) (a) Any person who fails to pay in a timely manner any fine imposed pursuant to this chapter shall pay, in addition to the fine due, a penalty amount equal to the fine.
- (b) Any person who submits to the commission a check in payment of a fine or license fee requirement imposed pursuant to this chapter, which is not honored by the financial institution upon which it is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine.

History: C. 1953, 4-38-9, enacted by L. 1992, ch. 296, § 9; 1993, ch. 4, § 8; 1993, ch. 64, § 6.

Amendment Notes. — The 1993 amendment by ch. 4, effective May 3, 1993, substituted "board" for "boards" in Subsection (1) and made a stylistic change in Subsection (2).

The 1993 amendment by ch. 64, effective May 3, 1993, deleted "or judges" after "stewards" in Subsection (2), deleted (i) and (ii) designations and added "that may be used in administering medicine internally in a horse, or" in Subsec-

tion (3)(o), added "patrol" in Subsections (3)(q) and (r), added "or" to Subsection (3)(t), deleted former Subsection (3)(v), listing failure to show proof of gainful employment at a racetrack, and made stylistic changes.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-10. Race meets — Licenses — Fairs.

(1) Each person making application for a license to hold a race meet under this chapter shall file an application with the commission which shall set forth the time, place, and number of days the race meet will continue, and other information the commission may require.

(2) A person who has been convicted of a crime involving moral turpitude may not be issued a license to hold a race meet.

(3) (a) The license issued shall specify the kind and character of the race meet to be held, the number of days the race meet shall continue, and the number of races per day.

(b) The licensee shall pay in advance of the scheduled race meet to the commission a fee of not less than \$25. If unforeseen obstacles arise which prevent the holding or completion of any race meet, the license fee held may be refunded to the licensee if the commission considers the reason for failure to hold or complete the race meet sufficient.

(4) (a) Any unexpired license held by any person who violates any of the provisions of this chapter, or who fails to pay to the commission any fees required under this chapter, shall be subject to cancellation and revocation by the commission.

(b) This cancellation shall be made only after a summary hearing before the commission, of which seven days notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation. At the hearing, the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

(5) (a) Fair boards or fair districts that conduct race meets in connection with regularly scheduled annual fairs shall be exempt from payment of the fees provided in this section, unless they sponsor a race in which the speed indexes are officially recognized under breed requirements.

(b) All fair boards and fair meets shall be limited to 14 race days, unless otherwise permitted by a unanimous vote of the commission.

(6) The exemption from the payment of fees under Subsection (5)(a) does not apply to those qualifying for official speed index races.

History: C. 1953, 4-38-10, enacted by L. 1992, ch. 296, § 10; 1993, ch. 64, § 7.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, in Subsection (3)(b), deleted "for each day of racing" and a former last sentence allowing license fees to be used in any incentive plan; subdivided Subsec-

tion (5); in Subsection (5)(a), added the language beginning "unless"; and substituted Subsection (6) for former language requiring each licensed person to have liability insurance.

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-11. Stimulation or retardation of animals prohibited — Tests.

(1) Any person who uses or permits the use of any mechanical or electrical device, or drug of any kind, to stimulate or retard any animal in any race authorized by this chapter, except as prescribed by the commission, is guilty of a class A misdemeanor.

(2) A commission member or race steward may cause tests to be made that they consider proper to determine whether any animal has been stimulated or retarded. Tests performed in furtherance of this section shall be conducted by or under the supervision of a licensed Utah veterinarian.

History: C. 1953, 4-38-11, enacted by L. 1992, ch. 296, § 11.

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to

Utah Const., Art. VI, Sec. 25.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

4-38-12. Bribery and touting prohibited.

Any person who gives or promises or attempts to give, or any person who receives or agrees to receive or attempts to receive, any money, bribe, or thing of value with intent to influence any person to dishonestly umpire, manage, direct, judge, preside, officiate at, or participate in any race conducted under this chapter with the intent or purpose that the result of the race will be affected or influenced thereby, is guilty of a felony of the third degree and subject to a fine of not more than \$10,000.

History: C. 1953, 4-38-12, enacted by L. 1992, ch. 296, § 12.

Effective Dates. — Laws 1992, ch. 296

became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-13. Race meet escrow.

Each race meet licensee shall deposit in escrow all added monies and monies from payment races in a FDIC bank that has received prior approval from the commission. All payment deposits shall be made in a timely manner determined by the commission, and each licensee shall provide proof of deposits as required by the commission.

History: C. 1953, 4-38-13, enacted by L. 1992, ch. 296, § 13.

Effective Dates. — Laws 1992, ch. 296

became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-14. Hearings.

(1) Except as otherwise provided in this section, all proceedings before the commission or its hearing officer with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to Title 63, Chapter 46b, Administrative Procedures Act.

(2) These proceedings shall be held in the county where the commission has its office or in any other place the commission designates. The commission shall notify the applicant or licensee by mailing, by first class mail, a copy of the written notice required to the last address furnished by the application or licensee to the commission at least seven days in advance of the hearing.

(3) The commission may delegate its authority to conduct hearings with respect to the denial or suspension of licenses or the imposition of a fine to a hearing officer.

(4) Proceedings before the board of stewards need not be governed by the procedural or other requirements of the Administrative Procedures Act, but rather shall be conducted in accordance with rules adopted by the commission.

(5) The commission and the board of stewards may administer oaths and affirmations, sign and issue subpoenas, order the production of documents and other evidence, and regulate the course of the hearing pursuant to rules adopted by it.

(6) Any person aggrieved by a final order or ruling issued by a board of stewards may appeal the order or ruling to the commission pursuant to

procedural rules adopted by the commission. The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

History: C. 1953, 4-38-14, enacted by L. 1992, ch. 296, § 14; 1993, ch. 4, § 9.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, substituted

“board” for “boards” in Subsection (4).

Effective Dates. — Laws 1992, ch. 296 became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-15. Gambling disclaimer.

Nothing in this chapter may be construed to legalize or permit any form of gambling.

History: C. 1953, 4-38-15, enacted by L. 1992, ch. 296, § 15.

Effective Dates. — Laws 1992, ch. 296

became effective on April 27, 1992, pursuant to Utah Const., Art. VI, Sec. 25.

4-38-16. Horse Racing Account created — Contents — Use of account monies.

(1) There is created within the General Fund a restricted account known as the Horse Racing Account.

(2) The Horse Racing Account consists of:

- (a) license fees collected under this chapter;
- (b) revenue from fines imposed under this chapter; and
- (c) interest on account monies.

(3) Upon appropriation by the Legislature, monies from the account shall be used for the administration of this chapter, including paying the costs of:

- (a) public liability insurance;
- (b) stewards;
- (c) veterinarians; and
- (d) drug testing.

History: C. 1953, 4-38-16, enacted by L. 1993, ch. 64, § 8.

Effective Dates. — Laws 1993, ch. 64 be-

came effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.