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July 1, 1986, added the language beginning "subject to any applicable provisions" to the end of the section.

4-21-5. Revenue from fees to be used to promote beef industry — Payment of revenue monthly to Utah Beef Council — Deduction of costs of administration and processing funds — Annual audit of books, records, and accounts — Financial statement of audit published.

All revenue derived from the collection of fees authorized by this chapter is used to promote the beef industry of the state with the revenue generated paid to the Utah Beef Council, a Utah non-profit corporation organized for the purpose of promoting Utah beef, or to an agency acceptable to the department with the concurrence of the Utah Cattlemen's Association, on a monthly basis as requested by the council or appointed agency, with a deduction of actual costs of administration of processing the funds.

The books, records, and accounts of the Utah Beef Council or appointed agency are audited at least once annually by a licensed accountant selected by the commissioner and approved by the state auditor. The results of the audit are submitted to the commissioner, and a financial statement of the audit and a general statement of operations and promotional and advertising activities shall be published by the council or appointed agency in a major livestock publication having general circulation in Utah.

History: C. 1953, 4-21-5, enacted by L. 1979, ch. 2, § 22; L. 1985, ch. 134, § 3.

Compiler's Notes. — The 1985 amendment substituted "monthly" for "quarterly" near the end of the first paragraph; inserted "or appointed agency" after "by the council" at the end of the first paragraph; substituted "or appointed agency are" for "shall be" in the first sentence of the second paragraph; added the

final clause of the second paragraph; and made minor changes in phraseology.

Effective Dates. — Section 4 of Laws 1985, ch. 134 provided: "This act takes effect upon approval by the governor, or the day following the constitutional time limit of Article VII, Sec. 8 without the governor's signature, or in the case of a veto, the date of veto override." Approved March 16, 1985.

CHAPTER 22

DAIRY PROMOTION ACT

Section

4-22-7. Assessment imposed on sale of milk or cream produced, sold, or contracted for sale in state — Time of assessment — Collection by

producer or producer-handler — Penalty for delinquent payment or collection — Statement to be given producer — Refund of assessment.

4-22-7. Assessment imposed on sale of milk or cream produced, sold, or contracted for sale in state — Time of assessment — Collection by producer or producer-handler — Penalty for delinquent payment or collection — Statement to be given producer — Refund of assessment.

(1) There is imposed upon the sale of all milk and cream produced and sold or contracted for sale through commercial channels in this state, an assessment of ten cents for each 100 pounds sold. The assessment, based upon daily or monthly settlements, is due and payable at a time prescribed by the commission, but not later than the 25th of the month next succeeding the month of sale.

(2) The assessment is assessed against the producer at the time the milk or milk fat is delivered for sale and shall be deducted and collected from the sales price by the dealer or producer-handler. All proceeds of the assessment shall be paid directly to the commission which shall evidence receipt of the assessment through a receipt issued to the dealer or producer-handler. If a dealer or producer-handler fails to timely remit the proceeds of the assessment or fails to deduct the assessment, a penalty equal to 10% of the assessment due shall be added to the assessment.

(3) At the time of payment of the assessment, the dealer or producer-handler, as the case may be, shall deliver a statement to the producer which contains:

(a) the name and address of the producer;

(b) the name and address of the purchaser, or if applicable, the name and address of the producer-handler;

(c) the dollar value of the milk and cream sold, and the amount of assessment deducted;

(d) the date of the purchase; and

(e) any other information the commission may require.

(4) A producer who objects to payment of the assessment may file a claim for a refund with the commission in an amount equal to the assessment paid during the year immediately preceding the year in which the claim is filed. No claim for refund, however, is allowed if it is filed later than January 31 of the year following the year for which a refund is claimed. Unless the claim is withdrawn, the refund shall be paid on or before May 30 of the year it is filed.

History: C. 1953, 4-22-7, enacted by L. 1979, ch. 2, § 23; L. 1981, ch. 4, § 2; 1986, ch. 98, § 1.

Compiler's Notes. — The 1986 amendment, effective July 1, 1986, in Subsection (1) substituted "of ten cents for each 100 pounds sold" for

"equivalent to 1% of the gross dollar amount of each such sale" in the first sentence and made minor word changes in the second sentence; substituted "contains" for "shall contain" in Subsection (3); and inserted "it is" before "filed" in the second sentence of Subsection (4).

CHAPTER 23

AGRICULTURAL AND WILDLIFE DAMAGE PREVENTION ACT

Section	Section
4-23-4. Agricultural and Wildlife Damage Prevention Board created — Composition — Appointment — Terms — Vacancies — Compensation.	and turkeys — Determination by board — Reports and payments.
4-23-7. Annual fees on sheep, goats, cattle	4-23-7.5. Agricultural and Wildlife Damage Prevention Account.

4-23-4. Agricultural and Wildlife Damage Prevention Board created — Composition — Appointment — Terms — Vacancies — Compensation.

There is created an Agricultural and Wildlife Damage Prevention Board composed of the commissioner and the director of the Division of Wildlife Resources, who shall serve, respectively, as the board's chairman and vice-chairman, together with seven other members appointed by the governor to four-year terms of office as follows:

- (1) one sheep producer representing wool growers of the state;
- (2) one cattle producer representing range cattle producers of the state;
- (3) one person from the United States Department of Agriculture;
- (4) one agricultural landowner representing agricultural landowners of the state;
- (5) one person representing wildlife interests in the state;
- (6) one person from the United States Forest Service; and
- (7) one person from the United States Bureau of Land Management.

Appointees' term of office shall commence June 1. Vacancies which occur on the board for any reason shall be filled by the governor for the unexpired term of the vacated member.

Attendance of five members at a duly called meeting shall constitute a quorum for the transaction of official business. The board shall convene at the times and places prescribed by the chairman or vice-chairman.

Members are entitled to per diem and expenses as established by the director of the Division of Finance.

History: C. 1953, 4-23-4, enacted by L. 1979, ch. 2, § 24; 1986, ch. 194, § 3; 1987, ch. 15, § 2.

Compiler's Notes. — The 1986 amendment substituted "as established by the director of the Division of Finance in §§ 63-1-14.5 and

63-1-15" for "in accordance with section 63-2-15" in the last paragraph.

The 1987 amendment substituted "United States Department of Agriculture" for "United States Fish and Wildlife Service" in Subsection (3) and deleted "in Section 63-1-14.5 and 63-1-15" at the end of the section.

4-23-7. Annual fees on sheep, goats, cattle and turkeys — Determination by board — Reports and pay- ments.

(1) To assist the department in meeting the annual expense of administering this chapter, the following annual fees are imposed upon animals owned by persons whose interests this chapter is designed to protect:

Sheep and goats (except dairy goats or feeder lambs confined on the farm)	at least \$.60 but not more than \$1 per head
Breeding cattle (except dairy cattle and those cattle confined in feedlots)	at least \$.17 but not more than \$.50 per head
Turkeys (breeding stock only)	at least \$.05 but not more than \$.25 per head

The amount of the fees imposed upon each category of animals specified in this section shall be determined by the board annually on or before July 1 of each year.

(2) Before January 1 of each year the commissioner shall mail to each owner of animals specified in this section a reporting form prepared by the commissioner. The form shall require sufficient information on the type and number of animals and indicate the fee imposed for each category of animals for the current year.

(3) Each owner shall file the completed form and the appropriate fee with the commissioner of agriculture before April 1 of each year.

(4) If any person who receives the reporting form fails to return the completed form and the imposed fee as required, the commissioner is authorized to commence suit through the office of the attorney general of the state of Utah, in a court of competent jurisdiction, to collect the imposed fee, the amount of which shall be as determined by the commissioner.

History: C. 1953, 4-23-7, enacted by L. 1979, ch. 2, § 24; L. 1982, ch. 3, § 1; 1983, ch. 125, § 1; 1984 (3rd S.S.), ch. 1, § 1.

Compiler's Notes. — The 1983 amendment inserted "(except dairy goats confined on the farm)" in the first paragraph.

4-23-7.5. Agricultural and Wildlife Damage Prevention Account.

There is created in the General Fund a restricted account to be known as the Agricultural and Wildlife Damage Prevention Account. All moneys received under § 4-23-7 are deposited by the Commissioner of Agriculture in the Agricultural and Wildlife Damage Prevention Account to be appropriated for the purposes provided in this chapter.

History: C. 1953, 4-23-7.5, enacted by L. 1984 (3rd S.S.), ch. 1, § 2.

Effective Dates. — Section 3 of Laws 1984 (3rd S.S.), ch. 1 provided: "This act shall take effect upon approval by the governor, or the

day following the constitutional time limit of Article VII, Sec. 8 without the governor's signature, or in the case of a veto, the date of veto override." Approved September 27, 1984.

CHAPTER 24

UTAH LIVESTOCK BRAND AND ANTI-THEFT ACT

Section	Section
4-24-8. Fees for recordation, transfer, renewal, and certified copies of brands and marks.	mules — Brand certificate or other evidence of ownership required — Transit permit — Contents.
4-24-9. Effect of recorded brand or mark — Transfer — Reservation of certain brands.	4-24-21. Brand inspection fees.
4-24-16. Transport of cattle and calves between brand inspection districts — Brand inspection required — Exception — No fee for reinspection — Application for brand inspection — Time and place of inspection — Applicability to horses and mules.	4-24-22. Travel permit in lieu of brand inspection certificate — Fees — Permit to accompany animal.
4-24-17. Transport of sheep, cattle, horses, or	4-24-23. Lifetime permit in lieu of brand inspection certificate — Fees — Permit to accompany animal — Transfer.
	4-24-28. Enforcement — Brand inspector's powers delineated.
	4-24-31. Repealed.

4-24-8. Fees for recordation, transfer, renewal, and certified copies of brands and marks.

The department, with the approval of the livestock brand board, shall charge and collect fees for the recordation, transfer, and renewal of any brand or mark in each position, and may charge a fee for a certified copy of the recordation. The fees shall be determined by the department pursuant to Subsection 4-2-2(2).

History: C. 1953, 4-24-8, enacted by L. 1979, ch. 2, § 25; L. 1984 (2nd S.S.), ch. 15, § 15; 1985, ch. 130, § 11.

Compiler's Notes. — The 1984 (2nd S.S.)

amendment rewrote this section. For prior version, see parent volume.

The 1985 amendment substituted "Subsection 4-2-2(2)" for "Subsection 63-38-3(2)."

4-24-9. Effect of recorded brand or mark — Transfer — Reservation of certain brands.

The owner of a recorded brand or mark has a vested property right in it which is transferable by a duly acknowledged instrument; provided, that a transferee has no rights in the brand or mark until the instrument of transfer is recorded with the department. No person however, other than a member of the Ute Indian Tribe has any vested property right in the brand "ID" which is reserved exclusively for use by members of the Ute Indian Tribe on the Uintah and Ouray Reservation and no person other than a member of the Navajo Indian Tribe has any vested right in the brand "- N" (Bar N) which is reserved exclusively for use by members of the Navajo Indian Tribe on the Navajo Indian Reservation so long as it appears on the left shoulder of the animal branded. The left jaw of cattle is reserved exclusively for use by the department to identify diseased cattle.

History: C. 1953, 4-24-9, enacted by L. 1979, ch. 2, § 25; L. 1983, ch. 4, § 1. added the provision for the Navajo Indian Tribe brand to the second sentence.
Compiler's Notes. — The 1983 amendment

4-24-16. Transport of cattle and calves between brand inspection districts — Brand inspection required — Exception — No fee for reinspection — Application for brand inspection — Time and place of inspection — Applicability to horses and mules.

(1) No person may transport any cattle or calves from a point within a brand inspection district to a point outside the district, except as provided in Subsection (2), until the cattle or calves have been brand inspected, unless the department approves their transport subject to brand inspection at some point designated along the transport route. No brand inspection fee is required to be paid upon reinspection of cattle or calves being transported between districts from a summer or winter range or pasture if the cattle or calves were brand inspected in the district of origin. Before transport from one district to another, the owner or person responsible for the transport shall apply to the department to inspect the brands and marks of the animals to be moved. The application shall state the time and place where the animals may be inspected. Upon receipt of an application for brand inspection, the department shall conduct the inspection at the time and place specified in the application or at such other time and place as the department approves.

(2) Cattle or calves may be transported between brand inspection districts without brand inspection if they are destined for a livestock market in this state and if a transport permit has been issued to the owner or owner's agent by the department. Two copies of the transport permit shall accompany the shipment.

(3) Horses and mules may move within the state without a brand inspection, but a brand inspection is required on a change of ownership or to leave this state.

History: C. 1953, 4-24-16, enacted by L. 1979, ch. 2, § 25; 1986 (2nd S.S.), ch. 10, § 3. and (2); divided the first sentence of Subsection (1) into two sentences by deleting "provided, that"; substituted "may transport" for "shall transport" in the present first sentence and made minor phraseology changes throughout Subsection (1); and added Subsection (3).
Compiler's Notes. — The 1986 (2nd S.S.) amendment, effective July 1, 1986, substituted references to cattle or calves for "cattle, calves, horses, or mules" and "they" in Subsections (1)

4-24-17. Transport of sheep, cattle, horses, or mules — Brand certificate or other evidence of ownership required — Transit permit — Contents.

No person may transport any sheep, cattle, horses, or mules without having an official state brand certificate or other proof of ownership in his possession. Each person transporting livestock for another person shall have a transit permit signed by the owner or the owner's authorized agent specifying the name of the person driving the vehicle, date of transportation, place of origin or loading, destination, date of issuance, and number of head being transported.

History: C. 1953, 4-24-17, enacted by L. 1979, ch. 2, § 25; L. 1986 (2nd S.S.), ch. 10, § 4.

Compiler's Notes. — The 1986 (2nd S.S.) amendment, effective July 1, 1986, divided the section into two sentences, substituting "Each person transporting livestock for another person shall have" at the beginning of the second

sentence for "together with"; substituted "may transport any sheep, cattle, horses, or mules" for "shall transport any sheep" and "his" for "such person's" in the first sentence; and substituted "date of issuance, and number of head being transported" for "and date of issuance" in the second sentence.

4-24-21. Brand inspection fees.

The department with the approval of the livestock brand board may set and collect a fee for the issuance of any certificate of brand inspection. Brand inspection fees incurred for the inspection of such animals at a livestock market may be withheld by the market and paid from the proceeds derived from their sale. The fee shall be determined by the department pursuant to Subsection 4-2-2(2).

History: C. 1953, 4-24-21, enacted by L. 1979, ch. 2, § 25; L. 1981, ch. 10, § 1; 1985, ch. 130, § 12.

Compiler's Notes. — The 1985 amendment substituted the present first sentence for the

former first sentence which read as set out in the parent volume; deleted "provided, however, that the 50 cents fee shall be reduced to 35 cents effective July 1, 1981" at the end of the second sentence; and added the third sentence.

4-24-22. Travel permit in lieu of brand inspection certificate — Fees — Permit to accompany animal.

The department may issue a permit upon the payment of a fee determined by the department pursuant to Subsection 4-2-2(2), in lieu of a certificate of brand inspection, for the transport of any show horse, show mule, or show cattle within or outside the state. The words "travel permit" shall be stamped or printed on the permit. A permit shall accompany each show animal while it is in transit and shall identify the animal to which it applies by age, sex, color, brand, mark, and scars. A travel permit is valid for the calendar year of the date of issuance, which date shall appear on the permit.

History: C. 1953, 4-24-22, enacted by L. 1979, ch. 2, § 25; L. 1984 (2nd S.S.), ch. 15, § 16; 1985, ch. 130, § 13.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted "fee determined by the department pursuant to Subsection 63-38-3(2)"

in the first sentence for "fee of not less than \$2 nor more than \$10"; and made a minor change in phraseology.

The 1985 amendment substituted "Subsection 4-2-2 (2)" for "Subsection 63-38-3(2)"

4-24-23. Lifetime permit in lieu of brand inspection certificate — Fees — Permit to accompany animal — Transfer.

The department may issue a "lifetime" permit upon the payment of a fee determined by the department pursuant to Subsection 4-2-2(2), in lieu of a certificate of brand inspection, for the transport of any horse or mule within or outside the state. The words "lifetime travel permit" shall be stamped or printed on the permit. The permit shall accompany each horse or mule while it is in transit and shall identify the animal to which it applies by age, sex, color, brand, and scars. A lifetime transportation permit is valid for as long as

the horse or mule to which it applies continues to be owned by the person to whom the permit is issued. A lifetime permit is transferable upon the transfer of ownership of such an animal, upon application for transfer and the payment of a permit transfer fee to the department in an amount determined by the department pursuant to Subsection 4-2-2(2).

History: C. 1953, 4-24-23, enacted by L. 1979, ch. 2, § 25; L. 1984 (2nd S.S.), ch. 15, § 17; 1985, ch. 130, § 14.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted provisions for determination of fees by department for a fee of not

less than \$2 nor more than \$15 for the permit and for a fee of not more than \$5 for the transfer; and made a minor change in phraseology.

The 1985 amendment substituted "Subsection 4-2-2 (2)" for "Subsection 63-38-3(2)" in two places.

4-24-28. Enforcement — Brand inspector's powers delineated.

(1) A brand inspector is empowered with the authority of a special function officer for the purpose of enforcing this chapter and such an inspector may, if deemed proper, stop any vehicle carrying livestock or livestock carcasses for the purpose of examining brands, marks, certificates of brand inspection, and bills of lading or bills of sale relating to the livestock in transit.

(2) Brand inspectors may enter any premises where livestock are kept or maintained for the purpose of examining brands or marks. If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of examining brands or marks or other evidence of ownership.

History: C. 1953, 4-24-28, enacted by L. 1979, ch. 2, § 25; L. 1986 (2nd S.S.), ch. 10, § 5.

Compiler's Notes. — The 1986 (2nd S.S.)

amendment, effective July 1, 1986, substituted "special function officer" for "peace officer" in Subsection (1) and "may enter" for "are also authorized to enter" in Subsection (2).

4-24-31. Repealed.

Repeal. — Section 4-24-31 (L. 1979, ch. 2, § 25), making violation of the chapter a class

"B" misdemeanor, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 25

ESTRAYS AND TRESPASSING ANIMALS

Section	Section
4-25-2. County responsibility for estrays — Contracts with other local governments authorized.	4-25-5. Report of estrays — Possession — Relief from liability.
4-25-4. Possession of estrays — Determination and location of owner — Sale — Disposition of proceeds — Notice — Title of purchaser — Immunity from liability.	4-25-6. Compensation for care of estrays — Liability of county — Notice required.
	4-25-13. Repealed.

4-25-2. County responsibility for estrays — Contracts with other local governments authorized.

Each county is responsible for the disposition of all estrays found within its boundaries. Each county in the discharge of its responsibility, however, may contract upon mutually agreeable terms with any city, town, or other county with an animal control office to perform any or all of the functions imposed by this chapter.

History: C. 1953, 4-25-2, enacted by L. 1979, ch. 2, § 26; L. 1983, ch. 7, § 1.

Compiler's Notes. — The 1983 amendment

rewrote this section to transfer responsibility from the department to counties. For prior version, see parent volume.

4-25-4. Possession of estrays — Determination and location of owner — Sale — Disposition of proceeds — Notice — Title of purchaser — Immunity from liability.

(1) Each county, except as otherwise provided in section 4-25-5, shall take physical possession of any estray it finds within its boundaries and attempt to determine the name and location of the animal's owner. The department shall assist any county which requests its help in locating the name and location of the owner or other person responsible for such animal. If ownership of the estray cannot be determined, or, if having determined ownership, neither the county nor the department is able to locate the owner within a reasonable period of time, the animal, notwithstanding the Uniform Disposition of Unclaimed Property Act, shall be sold at a livestock or other appropriate market and the proceeds of such sale paid, after the deduction of feed, transportation, and market costs, to the county causing the sale of such estray.

(2) No sale of an estray under this section shall be conducted without notice of the intended sale being published at least once ten days before the date of sale in a publication with general circulation within the county where the estray was taken into custody.

(3) The purchaser of an estray sold under this section shall receive title to the estray free and clear of all claims of the owner and any person claiming through the owner.

(4) The county, provided it complies with this chapter, is immune from liability on account of any estray sold at a livestock or other appropriate market.

History: C. 1953, 4-25-4, enacted by L. 1979, ch. 2, § 26; L. 1981, ch. 6, § 1; 1983, ch. 7, § 2.

Compiler's Notes. — The 1983 amendment rewrote this section. For prior version, see parent volume.

4-25-5. Report of estrays — Possession — Relief from liability.

(1) Any person, other than an official of the county or of an animal control office under contract with the county, who finds an estray shall report such fact to the county or animal control office immediately. The county or the animal control office upon receipt of notification shall either take possession

of the estray or, if deemed appropriate, authorize the person in possession of the estray to maintain and care for it pending determination and location of its owner.

(2) Any person who gives notice of an estray and delivers it to the county or animal control office is relieved of all liability to third persons on account of the estray to the extent of the value of the animal.

History: C. 1953, 4-25-5, enacted by L. 1979, ch. 2, § 26; L. 1983, ch. 7, § 3. substituted "county" for "department" throughout the section.

Compiler's Notes. — The 1983 amendment

4-25-6. Compensation for care of estrays — Liability of county — Notice required.

(1) A person who finds an estray and who, after giving notice is authorized by the county to maintain and care for it, is entitled to compensation from the owner, or from the county, as the case may be, for the reasonable costs of feeding and maintaining the animal; provided, that the county is liable for such cost only if the owner is not located after diligent search.

(2) No person who finds an estray however, is entitled to reimbursement for feed and maintenance or for any other cost incurred on behalf of the estray before such time as notice of the estray is given to the county or to the appropriate animal control office.

History: C. 1953, 4-25-6, enacted by L. 1979, ch. 2, § 26; L. 1983, ch. 7, § 4.

Compiler's Notes. — The 1983 amendment inserted "giving" in subsec. (1); substituted ref-

erences to county for references to the department or animal control office throughout the section; and made minor changes in phraseology and punctuation.

4-25-8. Owner liable for trespass of animals — Exception — Owner or occupant standing in action for trespass.

Constitutionality. — This section does not violate federal or state constitutional due process provisions by placing liability for trespassing cattle on the owners of such cattle where the trespass occurs in a county which has not

enacted a fence ordinance. *Bastian v. King* (Utah 1983) 661 P 2d 953.

A.L.R. — Liability for personal injury or death caused by trespassing or intruding livestock, 49 A.L.R.4th 710.

4-25-13. Repealed.

Repeal. — Section 4-25-13 (L. 1979, ch. 2, § 26), making violation of the chapter a class

"B" misdemeanor, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 26

DEAD ANIMALS AND COMMON FENCES

4-26-4. Failure to close entrance to enclosure, etc.

Cross-References. — Destruction of fence on private land unlawful, § 23-20-15.

CHAPTER 27

INSEMINATION OF DOMESTIC ANIMALS

(Repealed by Laws 1983, ch. 3, § 1)

4-27-1 to 4-27-10. Repealed.

Repeal. — Sections 4-27-1 to 4-27-10 (L. 1979, ch. 2, § 28; 1980, ch. 1, § 3), relating to artificial insemination of domestic animals, were repealed by Laws 1983, ch. 3, § 1.

CHAPTER 28

BRUCELLOSIS ERADICATION AND CONTROL

(Repealed by Laws 1983, ch. 5, § 7; 1984, ch. 2, § 1)

4-28-1 to 4-28-8. Repealed.

Repeal. — Sections 4-28-1 to 4-28-8 (L. 1979, ch. 2, § 29; 1980, ch. 1, §§ 4 to 6; 1982, ch. 2, § 2; 1983, ch. 5, §§ 1 to 4), relating to brucellosis eradication and control, were repealed by Laws 1984, ch. 2, § 1.

4-28-9. Repealed.

Repeal. — Section 4-28-9 (L. 1979, ch. 2, § 29; 1980, ch. 1, § 7), relating to quarantined feedlots, was repealed by Laws 1983, ch. 5, § 7.

4-28-10, 4-28-11. Repealed.

Repeal. — Sections 4-28-10, 4-28-11 (L. 1979, ch. 2, § 29; 1983, ch. 5, §§ 5, 6), relating to brucellosis eradication and control, were repealed by Laws 1984, ch. 2, § 1.

CHAPTER 29

DISEASES OF POULTRY

Section

4-29-5. License — Application — Fee — Expiration — Renewal.

Section

4-29-7. Repealed.

4-29-5. License — Application — Fee — Expiration — Renewal.

Application to operate a hatchery or to engage in the business of selling chicks, poults, or hatching eggs shall be made to the department upon forms prescribed and furnished by it. Upon receipt of a proper application and payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-2(2), the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue a license entitling the applicant to engage in the otherwise proscribed activity through December 31 of the year in which the license is issued. A hatchery license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-2(2).

History: C. 1953, 4-29-5, enacted by L. 1979, ch. 2, § 30; L. 1984 (2nd S.S.), ch. 15, § 18; 1985, ch. 130, § 15.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted fees determined by the department pursuant to Subsection 63-38-3(2)

for fees of \$10; and made minor changes in phraseology.

The 1985 amendment substituted "Subsection 4-2-2 (2)" for "Subsection 63-38-3(2)" in two places.

4-29-7. Repealed.

Repeal. — Section 4-29-7 (L. 1979, ch. 2, § 30), making violation of the chapter a class

"B" misdemeanor, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 30

LIVESTOCK MARKETS

Section

4-30-2. Livestock Market Committee created — Composition — Terms — Removal — Compensation — Duties.

Section

4-30-4. License required — Application — Fee — Expiration — Renewal.
4-30-8. Weighman license required — Application — Fee — Bond — Expiration — Renewal.

4-30-2. Livestock Market Committee created — Composition — Terms — Removal — Compensation — Duties.

There is created a Livestock Market Committee which consists of seven members appointed to a four year term of office by the governor:

- (1) the commissioner who serves as chairman;
- (2) one member recommended by the livestock market operators in the state;
- (3) one member recommended by the Utah Cattlemen's Association;
- (4) one member recommended by the Utah Dairymen's Association;
- (5) one member recommended by the Utah Woolgrowers' Association;
- (6) one member recommended by the horse industry; and
- (7) one member recommended by the Utah Farm Bureau Federation.

No more than four members, exclusive of the commissioner, shall be members of the same political party.

The governor may remove a member of the committee at the request of the association or group which recommended the member's appointment. The chairman is responsible for the call and conduct of meetings. Four members constitute a quorum for the transaction of official business. A member, other than the commissioner, is entitled to per diem and expenses in accordance with § 63-2-15 [as established by the director of the division of finance in §§ 63-1-14.5 and 63-1-15].

The Livestock Market Committee acts as advisor to the department with respect to the administration and enforcement of this chapter and makes recommendations necessary to carry out the intent of this chapter to the commissioner.

History: C. 1953, 4-30-2, enacted by L. 1979, ch. 2, § 31; L. 1985, ch. 71, § 1.

Compiler's Notes. — The 1985 amendment substituted "seven members" for "five members" and "a four year term" for "four year terms" in the introductory paragraph; deleted "as follows" at the end of the introductory paragraph; added Subsections (6) and (7); substituted "four members" for "two members" in the second paragraph; substituted the present first sentence of the third paragraph for the former first sentence which read as set out in the parent volume; deleted "Attendance of not less than" before "Four" at the beginning of the

third sentence of the third paragraph; inserted "necessary to carry out the intent of this chapter" in the last paragraph; deleted "deemed necessary to carry out the intent of this chapter" at the end of the last paragraph; and made minor changes in phraseology and punctuation.

Section 63-2-15, referred to at the end of the second paragraph, was repealed by Laws 1981, ch. 257, § 13. The bracketed provisions have been inserted to reflect the amendment of a similar reference to § 63-2-15 in §§ 4-2-7 and 4-2-8 by Laws 1986, chapter 194.

4-30-4. License required — Application — Fee — Expiration — Renewal.

(1) No person may operate a livestock market in this state without a license issued by the department. Application for a license shall be made to the department upon forms prescribed and furnished by it. The application shall specify:

- (a) the name and address of the applicant and a statement of the name and address of each person who has a financial interest in the applicant and the amount of such interest;

(b) a statement of the financial assets and liabilities of the applicant;
 (c) a legal description of the property where the market is proposed to be located, its street address, and a description of the facilities proposed to be used in connection with it;

(d) a schedule of the charges or fees the applicant proposes to charge for each service rendered; and

(e) a detailed statement of the trade area proposed to be served by the applicant, the potential benefits which will be derived by the livestock industry, and the specific services the applicant intends to render at such market.

(2) Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-2(2), and a favorable recommendation by the livestock market committee, the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue a license allowing the applicant to operate the livestock market proposed in the application valid through December 31 of the year in which the license is issued, subject to suspension or revocation for cause. A livestock market license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-2(2).

(3) No livestock market original or renewal license may be issued until the applicant has provided the department with a certified copy of a surety bond filed with the United States Department of Agriculture as required by the Packers and Livestock [Stockyards] Act (7 U.S.C. § 181 et seq.).

History: C. 1953, 4-30-4, enacted by L. 1979, ch. 2, § 31; L. 1980, ch. 1, § 8; 1984 (2nd S.S.), ch. 15, § 19; 1985, ch. 130, § 16.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted fees determined by the department pursuant to Subsection 63-38-3(2)

for fees of \$10 in subsec. (2); and made minor changes in phraseology and style.

The 1985 amendment substituted "Subsection 4-2-2 (2)" for "Subsection 63-38-3(2)" in two places in Subsection (2).

4-30-8. Weighman license required — Application — Fee — Bond — Expiration — Renewal.

(1) No person may act as a weighman at a livestock market without a license from the department. Application for a weighman's license shall be made to the department upon forms prescribed and furnished by it. Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to § 4-2-2(2), and deposit of either a corporate surety bond or trust fund agreement with the department in the principal amount of \$1,000, the commissioner shall issue a license allowing the applicant to act as a weighman through December 31 of the year in which the license is issued, subject to suspension or revocation for cause. A weighman's license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to § 4-2-2(2).

(2) Each weighman's surety bond shall be written by a surety licensed under the laws of Utah and name the state, as obligee, for the use and benefit of persons who consign livestock to a livestock market. The bond shall further be conditioned for the faithful and accurate weighing of livestock consigned to a livestock market, and for the payment of court costs and a reasonable attorney's fee to the prevailing party incident to any suit brought upon the bond.

History: C. 1953, 4-30-8, enacted by L. 1979, ch. 2, § 31; L. 1980, ch. 1, § 9; 1984 (2nd S.S.), ch. 15, § 20; 1985, ch. 130, § 17.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted fees determined by the department pursuant to § 63-38-3(2) for fees of

\$10 in subsec. (1); and made minor changes in phraseology.

The 1985 amendment substituted "Subsection 4-2-2 (2)" for "Subsection 63-38-3(2)" in two places in Subsection (1).

CHAPTER 31 LIVESTOCK INSPECTION AND QUARANTINE

Section
4-31-8. Tuberculosis and Bangs Account created — Exclusive use of revenue.
4-31-11. Restrictions on movement of swine

Section
— License required to feed garbage to swine — Fee.
4-31-19. Fee to compensate state for quarantine and sanitary procedures.
4-31-20. Repealed.

4-31-8. Tuberculosis and Bangs Account created — Exclusive use of revenue.

There is created within the General Fund a restricted fund account known as the "Tuberculosis and Bangs Disease Control Account." Revenue deposited in the Tuberculosis and Bangs Disease Control Account shall be used exclusively by the commissioner for the payment of expenses in administering tubercular tests and Bangs disease tests and for the payment of indemnities for slaughtered tubercular and Bang reacting dairy cattle.

History: C. 1953, 4-31-8, enacted by L. 1979, ch. 2, § 32; L. 1985, ch. 116, § 1; 1985, ch. 165, § 1.

Compiler's Notes. — The 1985 amendment by Chapter 116 deleted the former second and third sentences which read as enacted by Laws 1979, Chapter 2, § 32.

The 1985 amendment by Chapter 165 substituted ".0006" for "three mills for each dollar" in the former third sentence.

Effective Dates. — The composite of this section as amended by L. 1985, ch. 116, § 1 and ch. 165, § 1 takes effect January 1, 1986.

4-31-11. Restrictions on movement of swine — License required to feed garbage to swine — Fee.

(1) No person may (a) move or allow swine to stray from a quarantine area established under this chapter, or (b) move or allow swine affected or exposed to hog cholera or swine plague to stray from one area to another, except in accordance with departmental regulations.

(2) No person may feed garbage, as specified in Subsection (3), to swine unless such person has a license issued by the department. Application for a swine feeder license shall be made to the department upon forms prescribed and furnished by it. Upon approval of the application and payment of a fee in an amount determined by the department pursuant to Subsection 4-2-2(2), the department shall issue the applicant a swine feeder license valid through December 31 of the year in which the license is issued. A swine feeder license is annually renewable for a period of one year upon the payment of an annual

license renewal fee in an amount determined by the department pursuant to Subsection 4-2-2(2).

(3) No person may feed swine any garbage collected from any county, city, town, hotel, restaurant, meat market, railroad, or other place unless it is heated to a temperature of at least 212° Fahrenheit for 30 minutes or more, or is subjected to such other process as the department may approve through regulation.

History: C. 1953, 4-31-11, enacted by L. 1979, ch. 2, § 32; L. 1984 (2nd S.S.), ch. 15, § 21; 1985, ch. 130, § 18.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted "determined by the department pursuant to Subsection 63-38-3(2)" for "of \$10" in two places in subsec. (2); deleted

"on or before December 31 of each year" at the end of subsec. (2); and made minor changes in phraseology.

The 1985 amendment substituted "Subsection 4-2-2 (2)" for "Subsection 63-38-3(2)" in two places in Subsection (2).

4-31-19. Fee to compensate state for quarantine and sanitary procedures.

To compensate the state for the expense of carrying out quarantine and sanitary procedures, the commissioner may collect a fee, determined by the department pursuant to Subsection 4-2-2(2), on cattle, horses, and sheep that enter the state from a quarantined or infected area.

History: C. 1953, 4-31-19, enacted by L. 1979, ch. 2, § 32; L. 1984 (2nd S.S.), ch. 15, § 22; 1985, ch. 130, § 19.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted a fee determined by the department pursuant to Subsection

63-38-3(2) for a fee of five cents per head on cattle and horses and three cents per head on sheep.

The 1985 amendment substituted "Subsection 4-2-2(2)" for "Subsection 63-38-3(2)."

4-31-20. Repealed.

Repeal. — Section 4-31-20 (L. 1979, ch. 2, § 32), making violation of the chapter a class

"B" misdemeanor, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 32

MEAT AND POULTRY

Section
4-32-5. Slaughterhouse licenses and farm custom slaughter permits — Application — Fees — Expiration — Renewal.
4-32-9. Additional powers of commissioner.

Section
4-32-10. Judicial review of orders enforcing chapter.
4-32-19. Repealed.
4-32-21. Denial of application for farm custom slaughter permit — Venue for judicial review.

4-32-5. Slaughterhouse licenses and farm custom slaughter permits — Application — Fees — Expiration — Renewal.

(1) Application for a license to operate a slaughterhouse shall be made to the department upon forms prescribed and furnished by it. Upon receipt of a proper application, compliance with all applicable regulations, and the payment of an annual license fee determined by the department pursuant to Subsection 4-2-2(2), the commissioner, if satisfied that the public convenience and necessity will be served, shall issue a license allowing the applicant to operate a slaughterhouse through December 31 of the year in which the license is issued, subject to suspension or revocation for cause. A slaughterhouse license is annually renewable on or before December 31 of each year, upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-2(2).

(2) Application for a farm custom slaughter permit to engage in the business of slaughtering livestock shall be made to the department on forms prescribed and furnished by it. Upon receipt of a proper application, compliance with all applicable regulations, and payment of a permit fee in an amount determined by the department pursuant to Subsection 4-2-2(2), the commissioner shall issue a permit allowing the applicant to engage in farm custom slaughtering. A farm custom slaughter permit is annually renewable on or before December 31 of each year, upon the payment of an annual renewal permit fee in an amount determined by the department pursuant to Subsection 4-2-2(2).

History: C. 1953, 4-32-5, enacted by L. 1979, ch. 2, § 33; L. 1984 (2nd S.S.), ch. 15, § 23; 1985, ch. 130, § 20.

Compiler's Notes. — The 1984 (2nd S.S.) amendment substituted fees determined by the department pursuant to Subsection 63-38-3(2)

for fees of \$10 throughout the section; and made minor changes in phraseology.

The 1985 amendment substituted "Subsection 4-2-2 (2)" for "Subsection 63-38-3(2)" in four places.

4-32-9. Additional powers of commissioner.

(1) The commissioner also has power:

(a) to gather and compile information concerning and, to investigate the organization, business, conduct, practices, and management of any person subject to this chapter;

(b) to require any person subject to this chapter to file information regarding the person's business or operation as the commissioner requires;

(c) for the purpose of this chapter, at all reasonable times to have access to, for the purpose of examination, and the right to copy any documentary evidence, of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation;

(d) to require the attendance of witnesses and the production of documentary evidence at any place designated for hearing; in case of disobedience to a subpoena, the commissioner may invoke the aid of any court of competent jurisdiction to compel the attendance of witnesses and the production of documentary evidence; and

(e) to order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of the proceeding or investigation; the depositions may be taken before any person with power to administer oaths designated by the commissioner, and the testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent;

(2) No person may be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the commissioner or in obedience to the subpoena of the commissioner, whether the subpoena is signed or issued by him or his delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this chapter, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or subject the person to a penalty or forfeiture; but no individual may be prosecuted or subjected to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying may not be exempt from prosecution or punishment for perjury committed while so testifying.

(3) (a) Any person that neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commissioner is guilty of a class A misdemeanor; a fine imposed shall be not less than \$500.

(b) Any person that willfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or that willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or that neglects or fails to make, or to cause to be made, full, true, and correct entries in those accounts, records, or memoranda, of all facts and transactions appertaining to the business of that person or that willfully removes out of the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any person subject to this chapter or that willfully refuses to submit to the commissioner or to any of the commissioner's authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter within the person's possession or control is guilty of a class A misdemeanor, and a fine imposed shall be not less than \$500.

(c) If any person required by this chapter to file any annual or special report fails to do so within the time fixed by the commissioner, and the failure continues for 30 days after notice of default, the person shall forfeit to the state the sum of \$10 for each day of the continuance of the failure, which forfeiture is payable into the treasury of this state, and is recoverable in a civil suit in the name of the state brought in the district where the person has a principal office or in any district in which he does business. The various county attorneys, under the direction of the attorney general of this state, shall prosecute for the recovery of the forfeitures. The costs and expenses of prosecution shall be paid out of the appropriation for the expenses of the courts of this state.

History: C. 1953, 4-32-9, enacted by L. 1979, ch. 2, § 33; 1986, ch. 178, § 2.

Compiler's Notes. — The 1986 amendment redesignated former Subsections (2)(a) to (2)(d) as present Subsections (1)(c) to (1)(e) and (2), respectively; substituted "a class A misdemeanor; a fine imposed shall be not less than \$500" for "an offense and upon conviction by a court of competent jurisdiction shall be punished by a fine of not less than \$500 nor more than \$1,000, or by imprisonment for not more

than one year, or by both" in Subsection (3)(a); substituted "guilty of a class A misdemeanor, and a fine imposed shall be not less than \$500" for "subject, upon conviction, to a fine of not less than \$500 nor more than \$1,000, or to imprisonment for a term of not more than one year, or to both" in Subsection (3)(b); and made minor phraseology and punctuation changes throughout the section.

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

4-32-10. Judicial review of orders enforcing chapter [Effective January 1, 1988].

(1) Any party aggrieved by an order issued under Subsection 4-32-7(3) or under Subsection 4-32-8(1), (2), or (3) may obtain judicial review.

(2) The district courts have jurisdiction to enforce this chapter, and to prevent and restrain violations of this chapter, and have jurisdiction in all other kinds of cases arising under this chapter.

(3) All proceedings for the enforcement of this chapter, or to restrain violations of this chapter, shall be by and in the name of this state.

History: C. 1953, 4-32-10, enacted by L. 1979, ch. 2, § 33; 1987, ch. 161, § 14.

Amended effective January 1, 1988. — Laws 1987, ch. 161, § 14 amends this section effective January 1, 1988. See catchline "Compiler's Notes" below. For provisions of this section effective until January 1, 1988, see the bound volume.

Compiler's Notes. — The 1987 amendment, effective January 1, 1988, substituted the present provisions of Subsection (1) for those set out in the bound volume and made minor changes in phraseology and punctuation in Subsection (2).

4-32-11. Unlawful acts specified with respect to livestock or poultry or products of either.

A.L.R. — Federal pre-emption of state food labeling legislation or regulation, 79 A.L.R. Fed. 181.

Validity, under commerce (Art. I, § 8, cl. 3), of state statutes regulating labeling of food, 79 A.L.R. Fed. 246.

4-32-13. Meat or carcasses of horses, mules, or other equines to be marked or labeled — Livestock or poultry products not intended for human food — Dead, dying, disabled, or diseased animals.

A.L.R. — Federal pre-emption of state food labeling legislation or regulation, 79 A.L.R. Fed. 181.

Validity, under commerce clause (Art. I, § 8, cl. 3), of state statutes regulating labeling of food, 79 A.L.R. Fed. 246.

4-32-19. Repealed.

Repeal. — Section 4-32-19 (L. 1979, ch. 2, § 33), making violation of the chapter a class "B" misdemeanor or, if fraud involved, a class

"A" misdemeanor, and for treatment of minor violations, was repealed by Laws 1985, ch. 104, § 8.

4-32-21. Denial of application for farm custom slaughter permit — Venue for judicial review [Effective January 1, 1988].

(1) Any applicant, whose application for a license to operate a slaughterhouse or to obtain a farm custom slaughter permit is denied, may file a request for agency action with the department, requesting a hearing on the issue of denial.

(2) (a) Any person who is aggrieved by an order issued under this section may obtain judicial review.

(b) Venue for judicial review of informal adjudicative proceeding is in the district court in the county in which the alleged unlawful activity occurred or, in the case of an order denying a license application, in the county where the applicant resides.

(3) The attorney general's office shall represent the department in any original action or any appeal under this section.

History: C. 1953, 4-32-21, enacted by L. 1979, ch. 2, § 33; 1987, ch. 161, § 15.

Amended effective January 1, 1988. — Laws 1987, ch. 161, § 15 amends this section effective January 1, 1988. See catchline "Compiler's Notes" below. For provisions of this section effective until January 1, 1988, see the bound volume.

Compiler's Notes. — The 1987 amendment, effective January 1, 1988, deleted former Subsection (1); designated the first sentence of former Subsection (2) as present Subsection (1)

and deleted the former second sentence; designated former Subsection (3) as present Subsection (2) and in Subsection (a) substituted the present provisions for the former provisions following "under this section may" and added at the beginning of Subsection (b) the language preceding "in the district court"; deleted former Subsection (4); designated former Subsection (5) as present Subsection (3); and made minor changes in phraseology and punctuation throughout the section.

CHAPTER 33**MOTOR FUELS INSPECTION**

Section

4-33-8. Locking and sealing of pumps in violation of chapter — Posting notice

— Removal of sealed fuel — Resealing.

4-33-8. Locking and sealing of pumps in violation of chapter — Posting notice — Removal of sealed fuel — Resealing.

(1) The department may lock and seal any pump or other dispensing device which is in violation of this chapter. If such action is taken, the department shall post a notice in a conspicuous place on the pump or other dispensing