

LEGISLATIVE BILL 366

Approved by the Governor April 15, 1992

Introduced by Rogers, 41

AN ACT relating to agriculture; to amend sections 2-3505, 2-3901, 2-3905, 2-3906, 2-3912, 2-4325, 54-785, 54-786, 54-788, 54-792, 54-793, 54-796, 54-849, 54-852, 54-854, 54-855, 54-856, 54-858, 54-859, 54-860, 54-863, 81-262, 81-2,162.02, 81-2,162.03, 81-2,162.05, 81-2,162.07, 81-2,162.11, 81-2,162.12, 81-2,162.13, 81-2,162.15, 81-2,162.16, 81-2,162.17, 81-2,162.18, 81-2,162.20, 81-2,162.21, 81-2,162.23, 81-2,162.25, 81-2,165, 81-2,166, 81-2,167, 81-2,168, 81-2,169, 81-2,170, 81-2,171, 81-2,173, 81-2,176, 81-2,177.01, 81-2,179, 81-2,180, 88-544, and 88-549, Reissue Revised Statutes of Nebraska, 1943, and sections 81-2,147.01, 81-2,162.06, and 88-547, Revised Statutes Supplement, 1990, and sections 54-2297, 81-2,239, 81-2,240, 81-2,247, 81-2,248, 81-2,250, 81-2,253, 89-186, and 89-187, Revised Statutes Supplement, 1991; to change provisions relating to storage temperatures for eggs, federal regulations adopted by reference, sampling and analysis of liming materials, and importation of animals into and exportation of animals out of the state; to define and redefine terms; to provide for and change fees; to name the Animal Importation Act and the Nebraska Apiary Act; to provide for and change provisions relating to rules, regulations, and penalties; to eliminate provisions relating to registration for manufacture or distribution of commercial feed and commercial fertilizer; to change requirements relating to the labeling of commercial feed and commercial fertilizer as prescribed; to provide for licensure for manufacture or distribution of commercial fertilizer and soil conditioner; to correct the name of an association; to change provisions relating to adulterated commercial feed and the filing of a report by

distributors of commercial fertilizer or soil conditioners; to change provisions relating to registration under and enforcement of the Nebraska Apiary Act; to change provisions relating to the feeding of bees and the treatment and importation of diseased bees; to provide for an inspection report form after inspection of a food establishment or vending machine operation as prescribed; to change provisions relating to warehouses with regard to termination of storage, closure, and storage rates as prescribed; to change the distribution of inspection fees for grain moisture testing devices; to create a fund; to change the registration fee and device inspection fees for weighing and measuring establishments; to harmonize provisions; to provide operative dates; to repeal the original sections, and also section 54-851, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-3505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3505. After being received at the point of first purchase, all shell eggs for human consumption shall be held at a temperature not higher than ~~sixty~~ forty-five degrees Fahrenheit (~~seven~~ fifteen and ~~five-tenths~~ degrees Celsius), with a relative humidity of approximately seventy percent.

Sec. 2. That section 2-3901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3901. (1) The Legislature hereby adopts by reference the procedures prescribed by the United States Department of Health and Human Services in its document entitled Fabrication of Single-Service Containers and Closures for Milk and Milk Products, as it exists on January 1, 1990 ~~1992~~, and the provisions of Part II of the Grade A Pasteurized Milk Ordinance--1978 Recommendations of the United States Public Health Service/Food and Drug Administration, as it exists on January 1, 1990 ~~1992~~, including all provisions relating to cottage cheese contained therein and Supplement I to such ordinance entitled Grade A Condensed and Dry Milk Products and Condensed and Dry Whey, but excluding those provisions of Part II of such ordinance replaced under

subsection (2) of this section.

(2) Sections 9, 15, 16, and 17 of the ordinance expressly adopted by reference pursuant to subsection (1) of this section shall be replaced by sections 2-3903, 2-3904, 2-3909, and 2-3912 respectively.

(3) ~~Certified copies~~ Copies of the ordinance and the document entitled Fabrication of Single-Service Containers and Closures for Milk and Milk Products shall be filed in the offices of the Secretary of State, Clerk of the Legislature, and Department of Agriculture.

Sec. 3. That section 2-3905, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3905. (1) The Department of Agriculture may contract with local governmental subdivisions for the conduct of any or all of the regulatory functions authorized under the Nebraska Pasteurized Milk Law, except for the issuance, suspension, or revocation of permits.

(2) Regulatory activities performed by a subdivision acting under a contract authorized by this section shall conform with the Nebraska Pasteurized Milk Law and shall be deemed to have the same effect as those performed by the department.

(3) The term regulatory agency as used in the Nebraska Pasteurized Milk Law shall mean the department and any local governmental subdivision under contract with the department.

(4) Plant fabricating single-service articles shall mean any place, premises, or establishment where single-service containers or closures for milk or milk products are fabricated.

Sec. 4. That section 2-3906, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3906. (1) As a condition precedent to the issuance of a permit issued pursuant to the Nebraska Pasteurized Milk Law, and on or before August 1 of each year thereafter, the following described permit fees shall be paid to the department:

Milk Plant	\$100.00
Receiving Station	100.00
Plant Fabricating Single-Service Articles	100.00
Milk Distributor	75.00
Transfer Station	50.00
Milk Hauler	25.00
Milk Producer	No Fee

(2) All raw milk produced on farms or

pasteurized in plants holding permits issued under the Nebraska Pasteurized Milk Law shall be subject to the payment of inspection fees as prescribed in subsections (3) to (6) of this section. All fees shall be paid on or before the fifteenth of the month for milk produced or processed during the preceding month. Inspection fees for milk pasteurized outside of Nebraska shall be paid by the person shipping such raw milk outside the state. Inspection fees for milk pasteurized within Nebraska shall be paid by the plant pasteurizing such raw milk.

(3) The inspection fee on raw milk produced on a Grade A farm holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a Grade A plant holding a permit issued under such law shall be three cents per hundredweight of raw milk pasteurized.

(4) The inspection fee on raw milk produced on a Grade A farm holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a manufacturing milk plant shall be two and one-half cents per hundredweight of raw milk pasteurized in Nebraska, or per hundredweight of raw milk shipped from Nebraska, as appropriate.

(5) The inspection fee on raw milk produced on a Grade A farm holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a plant located outside of Nebraska shall be two and one-half cents per hundredweight of raw milk shipped from Nebraska.

(6) The inspection fee on raw milk produced on a Grade A farm not holding a permit issued under the Nebraska Pasteurized Milk Law and pasteurized at a Grade A plant holding a permit issued under such law shall be three-fourths of one cent per hundredweight of raw milk pasteurized.

(7) If any person required to have a permit pursuant to the Nebraska Pasteurized Milk Law has been operating prior to applying for a permit, an additional fee of one hundred dollars shall be paid upon application.

Sec. 5. That section 2-3912, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3912. Sections 2-3901 to 2-3912, the procedures prescribed by the United States Department of Health and Human Services in its document entitled Fabrication of Single-Service Containers and Closures for Milk and Milk Products as it exists on January 1, 1990 1992, and the provisions of Part II of the Grade A

Pasteurized Milk Ordinance--1978 Recommendations of the United States Public Health Service/Food and Drug Administration, as it exists on January 1, 1990 1992, including all provisions relating to cottage cheese contained therein and Supplement I to such ordinance entitled Grade A Condensed and Dry Milk Products and Condensed and Dry Whey, but excluding those provisions of Part II of such ordinance replaced under subsection (2) of section 2-3901, expressly adopted by reference under subsection (1) of section 2-3901 shall be known and may be cited as the Nebraska Pasteurized Milk Law.

Sec. 6. That section 2-4325, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4325. (1) It shall be the duty of the director or his or her duly authorized agent, to sample, inspect, make analyses of, and test agricultural liming materials distributed within this state as he or she may deem necessary to determine whether such agricultural liming materials are in compliance with the Agricultural Liming Materials Act. The director or his or her duly authorized agent is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material regulated by the act and by the rules and regulations adopted pursuant thereto, and to have access to the records relating to such material's distribution.

(2) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International or in accordance with other generally recognized methods. The director shall, pursuant to the rulemaking provisions of the Administrative Procedure Act, adopt and promulgate rules and regulations regarding methods of analysis and sampling, and shall refer to methods recognized by analytical chemists or published sources in adopting such methods.

(3) The results of official analyses of agricultural liming materials and portions of official samples shall be distributed by the department as provided in the rules and regulations at least annually.

Sec. 7. That section 54-785, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-785. The purpose of sections 54-785 to 54-796 the Animal Importation Act shall be to protect the health of animals in Nebraska by regulating or prohibiting certain activities relating to the importation of animals into Nebraska, which controls are essential to the prevention of the transference into

this state of dangerous, infectious, contagious, or otherwise transmissible diseases among animals. The methods provided for in sections 54-785 to 54-796 the act are in accordance with the purpose and intent of sections 54-701 to 54-705.

Sec. 8. That section 54-786, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-786. As used in sections 54-785 to 54-796 For purposes of the Animal Importation Act, unless the context otherwise requires:

(1) Animal shall mean any animal, including poultry, other than man, but shall exclude fish and reptiles; and

(2) Bureau shall mean the Bureau of Animal Industry of the Department of Agriculture.

Sec. 9. That section 54-788, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-788. (1) All animals brought into this state, except ~~(1)~~ (a) animals brought directly to a federally inspected slaughter establishment, ~~(2)~~ (b) cattle brought from the farm or ranch of origin directly to an establishment approved under 9 C.F.R. part 78, ~~(3)~~ (c) feeding or breeding swine brought directly from the farm of farrowing within an adjacent state to any establishment approved under 9 C.F.R. part 76, ~~(4)~~ (d) slaughter swine, excluding garbage-fed swine, brought directly from a state designated as hog cholera free to any establishment approved under 9 C.F.R. part 76, and ~~(5)~~ (e) poultry under eight weeks of age classified prior to movement into Nebraska as pullorum and typhoid clean or equivalent status pursuant to the rules and regulations officially promulgated by the United States Department of Agriculture commonly known and cited as the National Poultry Improvement Plan, shall be accompanied by a health certificate which states thereon the destination of such animals, which health certificate shall also meet the requirements for issuance, approval, content, and filing, as shall be prescribed by the Department of Agriculture through rules and regulations.

(2) The bureau may require through rules and regulations that a prior entry permit be obtained for animals if the bureau deems such a permit necessary for the protection of the health of domestic animals in the state. If the bureau determines that a prior entry permit is required, the person importing or transporting the animals into the state shall obtain such a permit

from the bureau.

Sec. 10. That section 54-792, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-792. Notwithstanding any other provision of ~~sections 54-785 to 54-796~~ the Animal Importation Act, it shall be unlawful for any person to bring, cause to be brought, or aid in bringing into this state for the purpose of resale any bovine calf that is both under two hundred pounds in weight and not accompanied by its female parent, but any except that (1) a bovine calf under two hundred pounds in weight need not be accompanied by its female parent if such calf is brought from the farm or ranch where calved directly to any establishment approved under 9 C.F.R. part 78 or (2) a resident of Nebraska or agent for such resident may bring such calf calves into this state in accordance with procedures adopted by the Department of Agriculture through rules and regulations.

Sec. 11. That section 54-793, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-793. (1) The bureau shall have the authority to place in quarantine at the expense of the owner any animal which has been brought into this state in violation of ~~sections 54-785 to 54-796~~ the Animal Importation Act. Any quarantine so imposed shall remain in effect until released by the bureau.

(2) The Department of Agriculture may adopt and promulgate rules and regulations to aid in the administration and enforcement of the act.

Sec. 12. That section 54-796, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-796. (1) The Department of Agriculture may apply for a restraining order or a temporary, permanent, or mandatory injunction against any person violating or threatening to violate the Animal Importation Act or the rules and regulations adopted and promulgated thereunder in order to insure compliance with the act. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(2) It shall be the duty of the county attorney of the county in which violations of the act are occurring or are about to occur, when notified of such violations or threatened violations by the

department, to cause appropriate proceedings under subsection (1) of this section to be instituted and pursued in the district court without delay.

(3) Any person violating the provisions of sections 54-785 to 54-796 the act shall be guilty of a Class III misdemeanor for the first offense and a Class II misdemeanor for each subsequent offense.

Sec. 13. This section and sections 54-785 to 54-796 shall be known and may be cited as the Animal Importation Act.

Sec. 14. That section 54-849, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-849. As used in For purposes of the Commercial Feed Act, unless the context otherwise requires:

(1) Brand name shall mean any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant person named on the label and distinguishing it from that of others;

(2) Commercial feed shall mean all materials, except whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated pursuant to subdivision (1) of section 54-854, or combinations of materials which are distributed or intended for distribution for use as feed or for mixing in feed unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such seeds are not chemically changed or are not adulterated within the meaning of subdivision (1) of section 54-854, are exempt. The director may, by regulation, exempt from this definition or from specific provisions of the Commercial Feed Act commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances are not intermixed or mixed with other materials and are not adulterated within the meaning of subdivision (1) of section 54-854;

(3) Customer-formula feed shall mean commercial feed which consists of a mixture of commercial feeds or feed ingredients manufactured according to the specific instructions of the final purchaser;

(4) Department shall mean the Department of Agriculture;

(5) Director shall mean the Director of Agriculture or his or her authorized agent;

(6) Distribute shall mean to offer for sale, sell, exchange, barter, or otherwise supply commercial feed;

(7) Distributor shall mean any person who distributes;

(8) Drug shall mean any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body;

(9) Feed ingredient shall mean each of the constituent materials making up a commercial feed;

(10) Label shall mean a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed;

(11) Labeling shall mean all labels and other written, printed, or graphic matter (a) upon a commercial feed or any of its containers or wrappers or (b) accompanying such commercial feed;

(12) Manufacture shall mean to grind, mix, blend, or further process a commercial feed for distribution;

(13) Mineral feed shall mean a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

(14) Official sample shall mean a sample of feed taken by the director in accordance with section 54-859;

(15) Percent or percentages shall mean percentages by weight;

(16) Person shall mean any individual, partnership, cooperative, corporation, firm, trustee, or association;

(17) Pet shall mean any domesticated animal normally maintained in or near the household of the owner thereof;

(18) Pet food shall mean any commercial feed prepared and distributed for consumption by pets;

(19) Product name shall mean the name of the commercial feed which identifies it as to kind, class, or specific use;

(20) Specialty pet shall mean any domesticated animal pet normally maintained in a cage or tank including, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles;

(21) Specialty pet food shall mean any

commercial feed prepared and distributed for consumption by specialty pets; and

(22) Ton shall mean a net weight of two thousand pounds avoirdupois.

Sec. 15. That section 54-852, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-852. A commercial feed shall be labeled as follows:

(1) In the case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following:

(a) The net weight;

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

(c) The guaranteed analysis stated in such terms as the director, by regulation, determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases, the substances or elements guaranteed shall be determinable by laboratory methods such as the methods published by the ~~Association of Official Analytical Chemists~~ AOAC International or other generally recognized methods;

(d) The common or usual name of each feed ingredient used in the manufacture of the commercial feed, except that the director, by regulation, may permit the use of a collective term of a group of feed ingredients which perform a similar function or he or she may exempt such commercial feeds, or any group thereof, from this requirement of a feed ingredient statement if he or she finds that such statement is not required in the interest of consumers;

(e) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed;

(f) Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the director, by regulation, may deem necessary for their safe and effective use; and

(g) Such precautionary statements as the director, by regulation, determines are necessary for the safe and effective use of the commercial feed; and

(2) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(a) Name and address of the manufacturer;

(b) Name and address of the purchaser;

- (c) Date of manufacture;
- (d) The product name and net weight of each commercial feed and each other feed ingredient used in the mixture;
- (e) Adequate directions for use for all customer-formula feeds;
- (f) The directions for use and precautionary statements as required by rules and regulations adopted and promulgated by the director; and
- (g) If a drug-containing product is used:
 - (i) The purpose of the medication or a claim statement;
 - (ii) The established name and level of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rules and regulations adopted and promulgated by the director; and
 - (iii) All appropriate precautions, warnings, and withdrawal statements as required by the director.

A duplicate copy of all the information required in subdivision (2) of this section shall be kept by the manufacturer for use by the department for sampling and inspection purposes.

Sec. 16. That section 54-854, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-854. A commercial feed shall be deemed to be adulterated if:

- (1)(a) It bears or contains any poisonous or deleterious substance which may render it injurious to health, except that if the substance is not an added substance, such commercial feed shall not be considered adulterated under this subdivision if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health;
- (b) It bears or contains any added poisonous, deleterious, or nonnutritive substance which is unsafe within the meaning of section 406, as amended, of the Federal Food, Drug, and Cosmetic Act, other than one which is (i) a pesticide chemical in or on a raw agricultural commodity or (ii) a food additive;
- (c) It is or it bears or contains any food additive which is unsafe within the meaning of section 409, as amended, of the Federal Food, Drug, and Cosmetic Act;
- (d) It is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a), as amended, of the Federal Food, Drug, and Cosmetic Act, except that when a

pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408, as amended, of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity, unless the feeding of such proposed feed will result or is likely to result in a pesticide residue in the edible product of the animal which is unsafe within the meaning of section 408(a), as amended, of the Federal Food, Drug, and Cosmetic Act; or

(e) It is or it bears or contains any color additive which is unsafe within the meaning of section 706, as amended, of the Federal Food, Drug, and Cosmetic Act;

(2) Any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;

(3) Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

(4) It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules and regulations adopted and promulgated by the director to assure that the drug meets the requirements of the Commercial Feed Act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In adopting and promulgating such rules and regulations, the director shall adopt and promulgate the current federal Good Manufacturing Practice Regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act unless he or she determines that they are not appropriate to the conditions which exist in this state;

(5) It contains viable prohibited noxious weed seeds as defined in subdivision (18)(a) of section 81-2.147.01 in amounts exceeding the limits which the director shall establish by rule or regulation; or

(6) It has been manufactured, ground, mixed,

bagged, or held under unsanitary conditions whereby it may have become contaminated with filth or been rendered injurious to animal health. An animal feed may be deemed to be contaminated with filth if not protected by all reasonable means and as far as necessary from dust, dirt, insect, or bird, rodent, or other animal excretion, and other foreign or injurious contamination.

Sec. 17. That section 54-855, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-855. The following acts are prohibited:

(1) The manufacture or distribution of any commercial feed that is adulterated or misbranded;

(2) The adulteration or misbranding of any commercial feed;

(3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of subdivision (1) of section 54-854;

(4) The removal or disposal of any commercial feed in violation of an order under section 54-860;

(5) The failure or refusal to comply with section 54-850; ~~or 54-851;~~

(6) The violation of subsection (6) of section 54-861; and

(7) Failure to pay inspection fees and file reports as required by section 54-856.

Sec. 18. That section 54-856, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-856. (1) There shall be paid to the director an inspection fee of ten cents per ton on all commercial feed distributed in the State of Nebraska during the six-month period following January 1, 1987. After the first six months of operation, the fee may be raised or lowered by the director after a public hearing is held outlining the reason for any proposed change in the rate. The maximum rate fixed by the director shall not exceed fifteen cents per ton. The inspection fee shall be paid on commercial feed distributed by the person whose name appears on the label as the manufacturer, guarantor, or distributor, except that a person other than the manufacturer, guarantor, or distributor may assume liability for the inspection fee, subject to the following:

(a) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor;

(b) No fee shall be paid on customer-formula feed if the inspection fee is paid on the commercial

feed which is used as ingredients therein;

(c) No fee shall be paid on commercial feed used as ingredients for the manufacture of other commercial feed, which is registered. If the fee has already been paid, credit shall be given for such payment;

(d) In the case of a commercial feed which is distributed in the state only in packages of ten pounds or less, an annual fee fixed by the director, not to exceed twenty-five dollars, shall be paid in lieu of the inspection fee. The annual fee shall be paid not later than the last day of January each year; and

(e) The minimum inspection fee shall be five dollars for any six-month reporting period.

(2) If the director determines that it is necessary to adjust the rate of the inspection fee being paid to the department, all registrants persons holding a valid license issued pursuant to section 54-850 shall be so notified and shall be given an opportunity to offer comment at a public hearing which shall be required prior to any inspection fee rate change.

(3) Each person who is liable for the payment of such fee shall:

(a) File, not later than January 31 and July 31 of each year, a semiannual statement setting forth the number of tons of commercial feed distributed in this state during the preceding six-month period, which statement shall cover the periods from July 1 to December 31 and January 1 to June 30, and upon filing such statement, pay the inspection fee at the rate specified by this section. Any person who holds a valid license issued pursuant to section 54-850 and whose name appears on the label as the manufacturer, quarantor, or distributor shall file such statement regardless of whether any inspection fee is due. Inspection fees which are due and owing and have not been remitted to the director within fifteen days following the date due shall have a penalty of twenty-five percent of the fees due added to the amount due when payment is made, and an additional penalty of twenty-five percent of the fees due shall be added if such fees are not paid within thirty days of the due date. The assessment of this penalty fee shall not prevent the director from taking other actions as provided in the Commercial Feed Act; and

(b) Keep such records as may be necessary or required by the director to indicate accurately the tonnage of commercial feed distributed in this state. The director shall have the right to examine such

records to verify statements of tonnage. Failure to make an accurate statement, to pay the inspection fee, or to comply as provided in this section shall constitute sufficient cause for the cancellation of all ~~registrations and~~ licenses on file.

Sec. 19. That section 54-858, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-858. (1) The director shall adopt and promulgate such rules and regulations for commercial feed and pet food as are specifically authorized in the Commercial Feed Act and such other reasonable rules and regulations as may be necessary for the efficient enforcement of the act. In the interest of uniformity, the director shall adopt and promulgate as rules and regulations, unless he or she determines that they are inconsistent with the act or are not appropriate to conditions which exist in this state, the following:

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

(b) Any regulation relating to commercial feed adopted and promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act.

(2) The Administrative Procedure Act shall apply to the Commercial Feed Act, except that it shall be the duty of the department to provide adequate notice to all current registrants persons holding a valid license issued pursuant to section 54-850 of any proposed rule or regulation, amendment to a rule or regulation, or intent to repeal an existing rule or regulation.

Sec. 20. That section 54-859, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-859. (1) For the purpose of enforcement of the Commercial Feed Act and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees authorized by the director, upon presenting appropriate credentials and notice to the owner, operator, or agent in charge, are authorized (a) to enter during normal business hours any factory, warehouse, or establishment in which commercial feed is manufactured, processed, packed, or held for distribution or to enter any vehicle being used to transport or hold such feed and (b) to inspect at

reasonable times and within reasonable limits and in a reasonable manner such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records and production and control procedures as may be necessary to determine compliance with the federal Good Manufacturing Practice Regulations.

(2) Credentials shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(3) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, he or she shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(4) If the owner of any factory, warehouse, or establishment or his or her agent refuses to admit the director to inspect pursuant to this section, the director may obtain a warrant from a court of competent jurisdiction directing such owner or his or her agent to submit the premises described in such warrant to inspection.

(5) The director may enter upon any public or private premises, including any vehicle of transport, during regular business hours to obtain samples and to examine records relating to the distribution of commercial feed.

(6) Sampling and analysis shall be conducted in accordance with methods published by the ~~Association of Official Analytical Chemists~~ AOAC International or in accordance with other generally recognized methods.

(7) The results of all analyses of official samples shall be forwarded by the director to the person named on the label. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within thirty days following receipt of the analysis, the director shall furnish to the registrant person named on the label a portion of the sample concerned.

(8) The director, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the

official sample obtained and analyzed pursuant to this section.

Sec. 21. That section 54-860, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-860. (1) When the director has reasonable cause to believe any lot of commercial feed is being distributed in violation of the Commercial Feed Act or any rule or regulation adopted and promulgated pursuant thereto, he or she may issue and enforce a written or printed withdrawal-from-distribution order warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the director or a court of competent jurisdiction. The director shall release the lot of commercial feed so withdrawn when the provisions, rules, and regulations of the act have been complied with. If compliance is not obtained within thirty days, the director may begin, or upon request of the distributor or registrant the person named on the label shall begin, proceedings for condemnation.

(2) Any lot of commercial feed not in compliance with the Commercial Feed Act and the rules and regulations adopted and promulgated pursuant thereto shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which such commercial feed is located. If the court finds the commercial feed to be in violation of the act or such rules and regulations and orders the condemnation of the commercial feed, such feed shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. In no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of such commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with the act.

Sec. 22. That section 54-863, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-863. The director shall publish at least annually, in such form as he or she may deem proper, information concerning the sales of commercial feed together with such data on their production and use as he or she may consider advisable and a report of the results of the analyses of official samples of commercial feed sold within the state as compared with the analyses guaranteed ~~in the registration~~ and on the

label, except that the information concerning production and use of commercial feed shall not disclose the operations of any person.

Sec. 23. That section 54-2297, Revised Statutes Supplement, 1991, be amended to read as follows:

54-2297. (1) It shall be unlawful for a buyer to purchase feeder swine, breeding swine, or both from a seller who has not complied with the Pseudorabies Control and Eradication Act or to import such swine into the state when the seller has not complied with the act or sections 54-785 to 54-796 Pseudorabies Control and Eradication Act or the Animal Importation Act.

(2) It shall be unlawful for a seller to sell or import swine if not in compliance with the act or sections 54-785 to 54-796 such acts.

Sec. 24. That section 81-262, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-262. It shall be the duty of the Chief of the Bureau of Dairies, Foods and Drugs:

(1) To inspect, or cause to be inspected, as often as may be deemed practicable, all creameries or butter factories, all places in which milk or cream is bought, sold, kept, handled, or stored within the state for manufacture into butter, including equipment used in relation thereto;

(2) To take, in the manner provided in section 81-244, samples anywhere of any cream or butter and cause the same to be analyzed or tested according to the method of the Association of Official Agricultural Chemists, AOAC International, which analysis or tests shall be preserved and recorded as evidence, and the certificate of which tests, when verified by the analyst, shall be admitted as evidence in all prosecutions that may result under the operation and enforcement of sections 81-229 to 81-267 this section and section 81-229;

(3) To enforce fully all of the provisions of said such sections; and

(4) To assist the Director of Agriculture in compiling and publishing statistics and information concerning all phases of the dairy industry in this state, and the production and sale of milk and cream, and the manufacture of butter therefrom. During any inspection made in relation to the provisions hereof of this section, if it shall appear appears that any creamery has a butter overrun of more than twenty-four and one-half percent, such record shall be evidence of

unlawful weighing and testing of cream and the manufacturing and marketing of unlawful butter.

Sec. 25. That section 81-2,147.01, Revised Statutes Supplement, 1990, be amended to read as follows:

81-2,147.01. As used in the Nebraska Seed Law:

(1) Advertisement shall mean all representations, other than those on the label, disseminated in any manner or by any means relating to seed, including farm grain represented as suitable for sowing, within the scope of the Nebraska Seed Law;

(2) Agricultural seed shall include the seeds of grass, forage, cereal, oil and fiber crops, and lawn and mixtures of such seeds and any other kinds of seed commonly recognized within this state as agricultural seeds and may include the seed of any plant that is being used as an agricultural crop when the Director of Agriculture establishes in rules and regulations that such seed is being used as agricultural seed;

(3) Blend shall mean seeds consisting of more than one variety of a kind, each in excess of five percent by weight of the whole;

(4) Brand shall mean a word, name, symbol, number, or design to identify seed of one person to distinguish it from seed of another person;

(5) Certifying agency shall mean (a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure genetic purity and identity of the seed certified or (b) an agency of a foreign country which is determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by certifying agencies under subdivision (a) of this subdivision;

(6) Conditioning shall mean drying, cleaning, scarifying, or other operations which could change the purity or germination of the seed and require the seed lot or any definite amount of seed to be retested to determine the label information;

(7) Director shall mean the Director of Agriculture or his or her designated employee or representative or authorized agent;

(8) Dormant seed shall mean viable seeds, other than hard seeds, which fail to germinate when provided the specified germination conditions for the kind of seed in question;

(9) Flower seed shall include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known and sold under the name of flower or wildflower seeds in this state;

(10) Germination shall mean the emergence and development from the seed embryo of those essential structures which for the kind of seed in question are indicative of the ability to produce a normal plant under favorable conditions;

(11) Hard seed shall mean seeds which remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat;

(12) Hybrid shall mean the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines, (b) one inbred or a single cross with an open-pollinated variety, or (c) two varieties or species except open-pollinated varieties of corn (*Zea mays*). The second generation and subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names;

(13) Inert matter shall mean all matter not seed which shall include broken seeds, sterile florets, chaff, fungus bodies, and stones as established by rules and regulations;

(14) Kind shall mean one or more related species or subspecies which singly or collectively are known by one common name, such as corn, oats, alfalfa, and timothy;

(15) Labeling shall include all labels and other written, printed, stamped, or graphic representations, in any form whatsoever, accompanying or pertaining to any seed, whether in bulk or in containers, and shall include representations on invoices;

(16) Lot shall mean a definite quantity of seed in containers or bulk identified by a lot number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling;

(17) Mixture, mix, or mixed shall mean seeds consisting of more than one kind, each present in excess of five percent by weight of the whole;

(18) Noxious weed seeds shall mean prohibited noxious weed seed and restricted noxious weed seed, except that the director may by rule or regulation add to or subtract from the list of seed included under

either category whenever he or she finds that such additions are within or subtractions are not within the respective categories.

(a) Prohibited noxious weed seeds shall mean the seeds of plants which are highly destructive and difficult to control in this state by ordinary good cultural practice, the use of herbicides, or both as well as certain weeds, including field bindweed (*Convolvulus arvensis*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), hoary cress (*Cardaria draba*), Russian knapweed (*Centaurea repens*), spotted knapweed (*Centaurea maculosa*), diffuse knapweed (*Centaurea diffusa*), johnsongrass (*Sorghum halepense*), musk thistle (*Carduus nutans*), plumeless thistle (*Carduus acanthoides*), Scotch thistle (*Onopordum acanthium*), morning glory (*Ipomoea purpurea*) when found in field crop seeds, skeletonleaf bursage (*Ambrosia discolor*), woollyleaf bursage (*Ambrosia tomentosa*), serrated tussock (*Nassella trichotoma*), and puncturevine (*Tribulus terrestris*).

(b) Restricted noxious weed seeds shall mean the seeds of such plants which are objectionable in fields, lawns, and gardens of this state, but can be controlled by good cultural practices, the use of herbicides, or both and include dodder (*Cuscuta* spp.), wild mustard (*Brassica* spp.), dock (*Rumex* spp.), quackgrass (*Elytrigia repens*), pennycress (*Thlaspi arvense*), purple loosetrife (*Lythrum salicaria*), and horsenettle (*Solanum carolinense*);

(19) Origin shall mean a foreign country or designated portion thereof, a state, the District of Columbia, Puerto Rico, or a possession of the United States, where the seed was grown;

(20) Other crop seed shall mean seed of plants grown as crops, other than the kind or variety included in the pure seed, as established by rules and regulations;

(21) Person shall include any corporation, company, society, association, body politic and corporate, community, individual, partnership, or joint-stock company or the public generally;

(22) Pure live seed shall mean the product of the percent of germination plus percent of hard or dormant seed multiplied by the percent of pure seed divided by one hundred. The result shall be expressed as a whole number;

(23) Pure seed shall mean seed exclusive of inert matter and all other seeds not of the seed being considered as established by rules and regulations;

(24) Record shall mean any and all information which relates to the origin, treatment, germination, purity, kind, and variety of each lot or definite amount of seed handled in this state. Such information shall include seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations;

(25) Sale in any of its variant forms shall mean sale, to barter, exchange, offer for sale, expose for sale, move, or transport, in any of their variant forms, or otherwise supplying;

(26) Screenings shall mean the results of the process which removes, in any way, weed seed, inert matter, and other materials from any agricultural, vegetable, or flower seed in any kind of cleaning process;

(27) Seizure shall mean a legal process carried out by court order against a definite amount or lot of seed;

(28) Stop-sale order shall mean an administrative order provided by law restraining the sale, use, disposition, and movement of a definite amount or lot of seed;

(29) Tetrazolium (TZ) test shall mean a type of test in which chemicals are used to produce differential staining of strong, weak, and dead tissues, which is indicative of the potential viability of seeds;

(30) Treated shall mean that the seed has been given an application of a substance or subjected to a process or coating for which a claim is made or which is designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom;

(31) Variety shall mean a subdivision of a kind which is distinct, uniform, and stable. For purposes of this subdivision: (a) Distinct shall mean that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; (b) uniform shall mean that variations in essential and distinctive characteristics are describable; and (c) stable shall mean that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties;

(32) Vegetable seed shall include the seeds of those crops which are grown in gardens and on truck

farms and are generally known and sold under the name of vegetable or herb seeds in this state; and

(33) Weed seed shall include the seeds of any plant generally recognized as a weed within this state as established in rules and regulations and shall include the noxious weed seeds.

Sec. 26. That section 81-2,162.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.02. When used in this act For purposes of the Nebraska Commercial Fertilizer and Soil Conditioner Act, unless the context otherwise requires:

(1) Director shall mean the Director of Agriculture or his or her duly authorized agent;

(2) Department shall mean the Department of Agriculture;

(3) Commercial fertilizer shall mean any formula or product distributed for further distribution or ultimate use as a plant nutrient, intended to promote plant growth, containing one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication. The term commercial fertilizer shall not be deemed to include unmanipulated animal and vegetable manures, but shall be deemed to include both finished products and fertilizer ingredients capable of being used in the formulation of a finished product;

(4) Bulk shall mean nonpackaged;

(5) Custom-blended product shall mean any individually compounded commercial fertilizer or soil conditioner mixed, blended, offered for sale, or sold in Nebraska to a person's specifications, when such person is the ultimate consumer, ~~;~~ PROVIDED, that if the ingredients used in such product which are subject to the registration requirements of section 81-2,162.03 shall have been so registered;

(6) Distribute shall mean to offer for sale, sell, barter, or otherwise supply commercial fertilizers or soil conditioners;

(7) Fineness shall mean the percentage of weight of the material which will pass United States standard sieves of specified sizes;

(8) Label shall mean a display of written, printed, or other graphic matter upon the container in which a commercial fertilizer or soil conditioner is distributed, or a statement accompanying such product;

(9) Labeling shall mean the label and all other written, printed, or graphic matter accompanying the commercial fertilizer or soil conditioner at any

time or to which reference is made on the label;

(10) Official sample shall mean any sample of commercial fertilizer or soil conditioner taken by the director or his or her agent;

(11) Product shall mean both commercial fertilizers and soil conditioners;

(12) Ton shall mean a net weight of two thousand pounds avoirdupois;

(13) Percent or percentage shall mean the percentage by weight;

(14) Person shall include individual, cooperative, partnership, association, firm, and corporation;

(15) Sell or sale shall include exchange;

(16) Soil conditioner shall mean any formula or product distributed, except unmanipulated animal and vegetable manures, which, when added to the soil, is intended to (a) change the physical condition of the soil; or (b) produce a favorable growth, yield, or quality of crops or other soil characteristics; but shall not mean a commercial fertilizer or agricultural liming material; and

(17) Specialty product shall mean a product for nonfarm use.

Sec. 27. That section 81-2,162.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.03. (1) Each ~~commercial fertilizer~~ and soil conditioner shall be registered before being distributed in this state. The distributor who first causes the distribution of the product into or within this state shall be responsible for compliance with the product registration requirements of this section. The application for registration shall be submitted to the director on forms furnished by the director, and shall be accompanied by two copies of the labeling for such product. Upon approval by the director, a copy of the registration shall be furnished to the applicant. All registrations shall expire on December 31 of each year. The application shall include the following information:

(a) The name and principal address of the person registering the product;

(b) The name and principal address of the person guaranteeing the product, if different than the registrant;

(c) The name and principal address of the person manufacturing the product, if different than the registrant;

(d) The name and principal address of the

person whose name appears on the label, if different than the registrant;

(e) The name of the product, including any term, design, trademark, or chemical designation used in connection with the product; and

(f) The guaranteed analysis showing the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen percent
 Ammoniacal Nitrogen
 (Specialty products only) percent
 Nitrate Nitrogen
 (Specialty products only) percent
 Water Insoluble Nitrogen
 (Specialty products only) percent
 Available Phosphoric Acid (P2O5) percent
 Soluble Potash (K2O) percent

Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total phosphoric acid and the degree of fineness. Plant nutrients, other than nitrogen, phosphorus, and potassium, shall be guaranteed when present in significant quantities as determined by the director, which guarantees shall be expressed in elemental form. The director may also request that the sources of such nutrients be stated in the application and included on the label. Other beneficial substances, determinable by chemical methods, may be guaranteed only by permission of the director by and with the advice of the Institute of Agriculture and Natural Resources. The director may permit or require the potential basicity or acidity, expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton, to be guaranteed.

(g) The sources from which the nitrogen, phosphoric acid (P2O5), and potash (K2O) are derived; and

(h) The percentage of every ingredient present in each soil conditioner.

(2) Custom-blended products shall be exempt from the requirements of this section, except ; **PROVIDED**, that such products shall bear a tag or invoice stating the name and principal address of the manufacturer, the name and address of the purchaser, and the net weight or measure and the composition of the product by weight or percentage of ingredients used, and a duplicate copy of such information shall be kept by the manufacturer for use by the department for sampling and inspection purposes. All ingredients shall be

subject to the inspection fee requirements of section 81-2,162.06; except those ingredients brought to the manufacturer by the ultimate user for custom blending.

(3) A product shall not be required to be registered under this section when the director knows, or has reason to know, that such product is currently registered pursuant to this section. The director shall consider two or more products to be the same product only if the characteristics of the products described under subdivisions (b) through ~~(h)~~ (f) of subsection (1) of this section are the same.

~~(4) When an application for registration identifies a person other than the registrant as the person guaranteeing the product, it shall be accompanied by a signed statement from the guarantor that the product contains the percentages of plant nutrients set out under subdivision (1)(f) of this section. When the guarantor and the registrant are the same person, such person shall be deemed to have made such a statutory guarantee by virtue of having applied for registration of the product.~~

Sec. 28. That section 81-2,162.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.05. (1) Any packaged commercial fertilizer distributed in this state, except custom-blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously:

(a) The net weight or measure of the product;

(b) The name and principal address of the manufacturer or distributor;

(c) The name of the product, including any term, design, trademark, or chemical designation used in connection with the product;

(d) The guaranteed analysis showing the minimum percentage of plant nutrients claimed in the following order and form:

- Total Nitrogen percent
- Ammoniacal Nitrogen
- (Specialty products only) percent
- Nitrate Nitrogen
- (Specialty products only) percent
- Water Insoluble Nitrogen
- (Specialty products only) percent
- Available Phosphoric Acid (P2O5) percent
- Soluble Potash (K2O) percent
- Unacidulated mineral phosphatic materials and

basic slag shall be guaranteed as to both total phosphoric acid and the degree of fineness. Plant nutrients, other than nitrogen, phosphorus, and potassium, shall be guaranteed when present in significant quantities as determined by the director, which guarantees shall be expressed in elemental form. The director may also request that the sources of such nutrients be included on the label. Other beneficial substances, determinable by chemical methods, may be guaranteed only by permission of the director by and with the advice of the University of Nebraska Institute of Agriculture and Natural Resources. The director may permit or require the potential basicity or acidity, expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton, to be guaranteed; and

(e) The sources from which the nitrogen, phosphoric acid (P2O5), and potash (K2O) are derived, and the information required by subdivisions (d), (e), (f), and (h) of subsection (i) of section 81-2,162-03-

(2) If distributed in bulk, a written or printed statement of the weight and the information required by subdivisions (d), (e), (f), and (h) of (a), (b), (c), and (d) of subsection (1) of this section 81-2,162-03, shall accompany delivery and be supplied to the purchaser.

(3) Whenever a commercial fertilizer is so comprised as to be recognized by a name commonly understood by ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Custom-blended products shall bear a tag or invoice stating the name and principal address of the manufacturer, the name and address of the purchaser, and the net weight or measure and the composition of the product by weight or percentage of ingredients used. A duplicate copy of such information shall be kept by the manufacturer for use by the department for sampling and inspection purposes.

Sec. 29. That section 81-2,162.06, Revised Statutes Supplement, 1990, be amended to read as follows:

81-2,162.06. (1) There shall be paid to the director, for all commercial fertilizers and soil conditioners distributed in this state to the ultimate user, except custom-blended products, an inspection fee at the rate fixed by the director but not exceeding ten cents per ton. The fee shall be paid by the person distributing the product to the ultimate user.

(2) Payment of the inspection fee shall be

evidenced by a statement made with documents showing that fees corresponding to the tonnage were received by the director.

(3) Every person who distributes commercial fertilizer or soil conditioners to the ultimate user in this state shall file, not later than the last day of January and July of each year, a semiannual tonnage report on forms provided by the department setting forth the number of net tons of commercial fertilizer and soil conditioners distributed in this state during the preceding six-month period, which report shall cover the periods from July 1 to December 31 and January 1 to June 30, and such other information as the director shall deem necessary. All persons required to be licensed pursuant to the Nebraska Commercial Fertilizer and Soil Conditioner Act shall file such report regardless of whether any inspection fee is due. Upon filing the report, such person shall pay the inspection fee at the rate prescribed pursuant to subsection (1) of this section. The minimum inspection fee required pursuant to this section shall be five dollars, and no inspection fee shall be paid more than once for any one product.

(4) If a person fails to report and pay the fee required by subsection (3) of this section by January 31 and July 31, he or she may be required by the department to pay a penalty of up to twenty-five percent in addition to the fee due if paid during the period of February 1 to February 28 or August 1 to August 31 for the respective delinquency and an additional twenty-five percent penalty thereafter. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this subsection shall constitute sufficient cause for the cancellation of all product registrations, licenses, or both facilities registrations on file for such person.

(5) No information furnished to the department under this section shall be disclosed in such a way as to reveal the operation of any person.

Sec. 30. That section 81-2,162.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.07. (1) It shall be the duty of the director to sample, inspect, make analyses of, and test commercial fertilizers and soil conditioners distributed within this state at such time and place and to such an extent as he or she may deem necessary to determine whether such products are in compliance with the provisions of this act the Nebraska Commercial Fertilizer and Soil Conditioner Act. The director is

authorized to enter upon any public or private premises or any carriers during regular business hours in order to have access to products subject to the provisions of ~~this~~ the act and the rules and regulations pertaining thereto.

(2) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International or in accordance with other generally recognized methods. The methods of sampling and analysis shall be those adopted by the director similar to those of the Association of Official Agricultural Chemists or other recognized sources as shall be adopted through rules and regulations of the department.

(3) The director, in determining for administrative purposes whether any product is deficient in plant nutrients, shall be guided solely by the official sample as defined in subdivision (10) of section 81-2,162.02, and obtained and analyzed as provided for in subsection (2) of this section.

(4) The results of official analysis of any product, which has been found to be subject to penalty or other legal action, shall be forwarded by the director to the registrant and guarantor or person named on the label at least ten days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the director, the report shall become official. Upon request made within ninety days of the analysis, the director shall furnish to the registrant and guarantor or person named on the label a portion of any sample found subject to penalty or other legal action. Following expiration of the ninety-day period, the director may dispose of such sample or samples.

Sec. 31. That section 81-2,162.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.11. The director shall publish at least annually, in such forms as he or she may deem proper, information concerning the sales of commercial fertilizers and soil conditioners, together with such data on their production and use as he or she may consider advisable, and a report of the results of the analysis based on official samples of commercial fertilizers and soil conditioners distributed within the state as compared with the analyses guaranteed under the provisions of section 81-2,162-03 the Nebraska Commercial Fertilizer and Soil Conditioner Act.

Sec. 32. That section 81-2,162.12, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

81-2,162.12. For the enforcement of this act the Nebraska Commercial Fertilizer and Soil Conditioner Act, the director is authorized to prescribe rules and regulations, after public hearing following due public notice, relating to the distribution of commercial fertilizers and soil conditioners as he or she may find necessary to carry into effect the full intent and meaning of this the act.

Sec. 33. That section 81-2,162.13, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.13. The director is authorized and empowered to cancel the registration of or license of any person manufacturing or distributing any commercial fertilizer or soil conditioner or to refuse to register any commercial fertilizer or soil conditioner as herein provided, upon satisfactory evidence that the registrant, licensee, or guarantor has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this act the Nebraska Commercial Fertilizer and Soil Conditioner Act or any rules and regulations promulgated thereunder. No license or ; PROVIDED, that no registration shall be revoked or refused until the registrant, licensee, or and guarantor shall have has been given the opportunity to appear for a hearing before the director.

Sec. 34. That section 81-2,162.15, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.15. Any lot of commercial fertilizer or soil conditioner not in compliance with the provisions of this act the Nebraska Commercial Fertilizer and Soil Conditioner Act shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which such product is located. In the event the court finds such product to be in violation of the provisions of this such act and orders the condemnation of such product, it shall be disposed of in any manner consistent with the quality of the product and the laws of the state. In ; PROVIDED, that in no instance shall the disposition of such product be ordered by the court without first giving the claimant an opportunity to apply to the court for release of such product or for permission to process or relabel such product to bring it into compliance with the provisions of this the act.

Sec. 35. That section 81-2,162.16, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

81-2,162.16. If it shall appear from the examination of any commercial fertilizer or soil conditioner that any of the provisions of ~~this act~~ the Nebraska Commercial Fertilizer and Soil Conditioner Act or the rules and regulations issued thereunder have been violated, the director shall cause notice of the violations to be given to the person from whom ~~the said~~ the sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the director. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of ~~this~~ the act or rules and regulations issued thereunder have been violated, the director may certify the facts to the county attorney of the county in which the violation occurred or to the Attorney General, as the case may be.

Sec. 36. That section 81-2,162.17, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.17. Any person violating any provisions of ~~this act~~ the Nebraska Commercial Fertilizer and Soil Conditioner Act or the rules and regulations issued thereunder, or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the director in the performance of his or her duty pursuant to ~~this~~ the act, shall be guilty of a Class II misdemeanor.

Sec. 37. That section 81-2,162.18, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.18. Nothing in ~~this act~~ the Nebraska Commercial Fertilizer and Soil Conditioner Act shall be construed as requiring the director to report for prosecution or for the institution of seizure proceedings for minor violations of ~~this~~ such act when he or she believes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 38. That section 81-2,162.20, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.20. The director is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of ~~this act~~ the Nebraska Commercial Fertilizer and Soil Conditioner Act, or any rules or regulations promulgated under ~~this~~ the act,

notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

Sec. 39. That section 81-2,162.21, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.21. Nothing in ~~this act~~ the Nebraska Commercial Fertilizer and Soil Conditioner Act shall be construed to restrict or avoid sales or exchanges of commercial fertilizers or soil conditioners to each other by importers, manufacturers, or manipulators who mix commercial fertilizers or soil conditioners for sale or as preventing the free and unrestricted shipments of commercial fertilizers and soil conditioners to manufacturers or manipulators who have registered their products as required by ~~met~~ the provisions of ~~this the~~ act.

Sec. 40. That section 81-2,162.23, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.23. (1) No person shall manufacture or distribute commercial fertilizers or soil conditioners in this state unless such person holds a valid registration license for each manufacturing and distribution facility in this state. Any out-of-state manufacturer or distributor who has no distribution facility within this state shall obtain a registration license for his or her principal out-of-state office, if he or she markets or distributes commercial fertilizer or soil conditioners in the State of Nebraska.

(2) An applicant ~~Applicants~~ for registrations a license shall make application to the department on forms furnished by the department. Application forms shall be submitted to the department accompanied by an annual registration license fee of fifteen dollars. Registrations Licenses shall be renewed on or before January 1 of each year.

(3) A copy of the valid registration license shall be posted in a conspicuous place in each manufacturing or distribution facility.

(4) Registered persons ~~Persons~~ distributing custom-blended products shall maintain records of purchase orders received for custom-blended products from the date such orders are received until such products are distributed, which records shall be sufficient to show the product ordered, date of such order, purchaser, and quantity of product ordered.

(5) The provisions of this section shall not apply to any retail store which sells or offers for sale less than a five-ton volume of commercial fertilizer or

soil conditioners annually.

Sec. 41. That section 81-2,162.25, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,162.25. No person shall distribute misbranded commercial fertilizers or soil conditioners. A commercial fertilizer or soil conditioner shall be deemed to be misbranded if:

(1) Its labeling is false or misleading in any particular;

(2) It is distributed under the name of another commercial fertilizer or soil conditioner;

(3) It is not labeled as required by this act the Nebraska Commercial Fertilizer and Soil Conditioner Act or the regulations promulgated hereunder under the act;

(4) It purports to be or is represented as a commercial fertilizer or soil conditioner or as containing an ingredient, for which a definition of identity or standard of quality has been prescribed by regulation of the department, unless it conforms to such definition and standard; or

(5) Any word, statement, or other information required by this the act or the regulations promulgated under this the act to appear on the label is not prominently displayed with such conspicuousness, as compared with other words, statements, designs, or devices, on the label, and in such terms as to render it likely to be read and understood by an individual under customary conditions of purchase and use.

Sec. 42. That section 81-2,165, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,165. The Department of Agriculture, under the direction of the State Apiarist and his or her assistants, shall enforce ~~sections 81-2,165 to 81-2,189~~ the Nebraska Apiary Act. The Director of Agriculture shall have authority to make or cause to be made all necessary examinations and inspections and to adopt and promulgate such rules, regulations, and orders as may be necessary to enforce such ~~sections~~ act promptly and effectively.

It shall be the duty of the department to take all measures necessary to prevent the introduction, spread, or dissemination of any and all contagious or infectious diseases, parasites, or pests of honeybees and to bring or cause to be brought actions and proceedings in the name of the people of the State of Nebraska to enforce such ~~sections~~ act.

There is hereby created the position of State Apiarist. He or she shall be appointed by the Director of Agriculture. He or she shall be a graduate of a recognized university with a major or its equivalent in entomology or apiculture or in lieu thereof his or her appointment shall be made on the basis of recognized and demonstrated interest in and knowledge of apiculture or entomology covering a minimum of ten years' experience in apicultural interests and bee diseases. It shall be the duty of the State Apiarist to aid in the protection of the apicultural interests in the state from bee diseases, parasites, or pests. The State Apiarist shall be furnished suitable office space in the Department of Agriculture.

Sec. 43. That section 81-2,166, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,166. As used in sections 81-2,165 to 81-2,180 For purposes of the Nebraska Apiary Act, unless the context otherwise requires:

(1) Bees shall mean any stage of the common honeybee, *Apis mellifera* L;

(2) Disease shall mean American foulbrood, European foulbrood, chalkbrood, sacbrood, paralysis, or any other abnormal condition of egg, larva, pupa, or the adult stages of bees;

(3) Parasite shall mean any harmful organism living in or on bees including, but not limited to, *Varroa jacobsoni*, *Acarapis woodi*, and *Tropilaelaps clareae*;

(4) Pest shall mean any harmful subspecies of the honeybee *Apis mellifera*, including, but not limited to, *Apis mellifera scutellata*;

(5) Exotic disease, parasite, or pest shall mean any disease, parasite, or pest not known to be established in this state;

(6) Apiary shall mean any place where one or more colonies of bees or nuclei of bees are located;

(7) Hive shall mean a frame hive, box hive, box, barrel, log gum, skep, or any other receptacle or container, natural or artificial, or any part thereof, which is used or employed as a domicile for bees;

(8) Colony shall mean the aggregate of worker bees, drones, the queen, and developing young bees living together as a family unit in a hive or other dwelling;

(9) Nucleus shall mean a small mass of bees and combs of brood used in forming a new colony;

(10) Bee equipment shall mean hives, supers,

frames, veils, gloves, or any other apparatus, tool, machine, vehicle, or any other device used in the handling, moving, or manipulating of bees, honey, wax, or hives, including containers of honey or wax which may be used in any apiary or in transporting bees and their products and apiary supplies;

(11) Beekeeping shall mean the moving, raising, and producing of bees, beeswax, and honey, which is an agricultural pursuit. Any keeper of fifty or more hives of bees who is engaged in the foregoing activities is a farmer and engaged in farming for all statutory purposes;

(12) Abandoned apiary shall mean any apiary not regularly attended in accordance with good beekeeping practices and which constitutes a disease, parasite, or pest hazard to the beekeeping industry; and

(13) Director shall mean the Director of Agriculture or his or her designated representative.

Words used in such sections the act shall be construed to import either the plural or singular, as the case demands.

Sec. 44. That section 81-2,167, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,167. In order to accomplish the purposes of inspection and the carrying out of ~~sections 81-2,165 to 81-2,180~~ the Nebraska Apiary Act or any rule, regulation, or order made pursuant to ~~such sections the act~~, the officers and employees of the Department of Agriculture shall have authority at all reasonable times to enter upon any public or private premises for the purpose of ascertaining the existence of or for treatment or destruction of any contagious or infectious diseases, parasites, or pests of bees or brood. They shall have free access to all apiaries, structures, bee equipment, or premises where bees, honey, used bee equipment, or comb in apiaries may be. They may open any hive, colony, package, or receptacle of any kind containing or which they have reason to believe contains any bees, comb, bee products, used beekeeping equipment, or anything else which is capable of transmitting diseases, parasites, or pests of bees; and they may stop pedestrians, motor cars, and vehicles when they are likely to be carrying, contrary to ~~such sections, the act~~ or any rule, regulation, or order established pursuant to such sections the act, any bees, comb, used bee equipment, or anything else which is capable of transmitting diseases, parasites, or pests of bees. They shall have authority to inspect or reinspect at any

time or place any bees, bee products, or used bee equipment shipped in or into the state and to treat it as provided in section 81-2,171. It shall be unlawful to deny such access to the officers and employees of the department or to offer any resistance to, thwart, or hinder such officers and employees by misrepresentation or by concealing facts or conditions. They shall have the power to inspect any apiary, or honey house, or building, or portion of building or container in which honey is stored, graded, or processed and to determine whether or not any insanitary conditions exist. If it is found that insanitary conditions exist or are permitted to exist, the owner or person in charge shall be notified in writing to place such apiary, honey house, building, or portion of building or container in a sanitary condition within a reasonable length of time, and any operator or owner of such apiary, honey house, building, or container failing to obey such notice shall be guilty of a misdemeanor and shall be punished as provided in section 81-2,179. Each apiary not located at the owner's or operator's place of residence shall have posted in a conspicuous place the name and address of the owner.

Sec. 45. That section 81-2,168, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,168. If upon inspection of any bee colonies in the state the existence of diseases, parasites, or pests are found, the Department of Agriculture or its duly authorized agent shall notify in writing the owner or person in charge of the bees, stating the nature of the disease, parasite, or pest and the best method of treating such disease, parasite, or pest, which treatment shall be administered by the owner or person in charge within ten days thereafter as specified in rules and regulations adopted and promulgated by the department. When establishing the best method of treating such disease, parasite, or pest, the department shall consider (1) the specific disease, parasite, or pest found, (2) the severity of the infestation, (3) the time of year such disease, parasite, or pest was found, (4) the effectiveness of current control methods, and (5) any other factors deemed necessary by the department to effectively control the disease, parasite, or pest. The written notice may be served by handing a copy thereof to the owner or person in charge of the apiary, by leaving a copy thereof with an adult person residing upon the premises, or by either registered or certified mail

addressed to the owner or person in charge of such apiary at his or her last-known or reputed address.

Sec. 46. That section 81-2,169, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,169. Infected shipments, apiaries wherein the existing disease, parasite, or pest cannot be successfully treated, and apiaries which are affected by a disease, parasite, or pest amenable to treatment, but which have not been treated within a period of ten days after the owner thereof shall have received notice of the necessary treatment as specified by the Department of Agriculture, as provided in section 81-2,168, and apiaries having bees in hives without movable frames or any colonies of bees or shipments of used bee equipment which entered this state illegally are declared to be a public nuisance and menace to the community, and the officers and employees of the Department of Agriculture may destroy by burning or otherwise, without any remuneration to the owner, any box hives or infected bees, hives, or used bee equipment found therein.

Sec. 47. That section 81-2,170, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,170. (1) It shall be unlawful for any person knowingly to keep in his or her possession, without proper treatment, any colony of bees affected with any bee diseases, parasites, or pests or to expose any diseased or parasitized colony or infected hive or bee equipment so that flying bees may have access to them. Any person who knows that bees owned or controlled by him or her are affected with contagious or infectious diseases, parasites, or pests shall at once report such fact to the Department of Agriculture, stating all facts known to him or her with reference to the contagion or infection. When it has been determined that contagious or infectious diseases, parasites, or pests have been found in an apiary, such apiary shall be quarantined by the department until for a period of at least thirty days, except that in apiaries when diseases, parasites, or pests are found to exist in the fall of the year toward the end of the breed rearing season, such apiaries may be quarantined until May 1 of the following year unless released by the department. During that period whenever American foulbrood is found in the apiary, no colony, honey, or bee equipment of any kind may shall be removed from the apiary unless under special written permit issued by the State Apiarist or

bee inspector. A notice shall be posted in each yard so quarantined, and written notice shall be sent to the owner or person in charge. Should any state be willing to accept bees or used bee equipment from a quarantined yard of bees in Nebraska, the State Apiarist of Nebraska may, after all known contagious or infectious diseases, parasites, or pests have been destroyed, issue a special permit allowing bees and used bee equipment to be moved out of the state. The State Apiarist of Nebraska may refuse to issue an entry permit for any colonies of bees or used bee equipment of the person involved during the period of the next three years.

(2) If an exotic disease, parasite, or pest is found to have been introduced into this state, the director shall have the authority to quarantine any portion of this state until he or she can determine whether the disease, pest, or parasite has spread and may take action to eradicate or prevent the spread of the exotic disease, parasite, or pest as provided in sections 81-2,168 to 81-2,170 the Nebraska Apiary Act. Beekeepers affected shall be notified in writing of the quarantine and shall also be notified in writing when the quarantine is released.

Sec. 48. That section 81-2,171, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,171. (1) It shall be unlawful for any ~~person, firm, corporation, or beekeeper~~ transportation company, or other person to bring into this state any bees on comb, used hives, or other used bee equipment from any other states or countries except under special permits. Common carriers may transport bees and bee equipment through this state if the shipment originated outside of this state and is destined for some point outside of it. It shall be unlawful for any person to bring or cause to be brought into this state any colonies of bees, combless packages, queen bees, or nuclei unless there is plainly and legibly marked thereon or affixed thereto or on or to the car or other vehicle carrying the colony, combless package, queen bee, or nucleus, in a conspicuous place, a statement or a tag or other device showing the names and addresses of the consignors or shippers, the consignees or persons to whom shipped, and the name of the locality of origin, together with a certificate of inspection of the proper apiary regulatory official of the state, territory, district, or country ~~from which it was brought or shipped~~, showing that such bees were inspected and found or believed to be free from any infectious or contagious

diseases, parasites, or pests. Colonies of bees shall also be accompanied by a written permit from the State Apiarist as provided for further in this section. Whenever bees are shipped into Nebraska covered by a valid certificate issued by other state or government inspectors, such certificate shall be held prima facie evidence of the facts therein stated, but the Department of Agriculture shall be authorized to inspect or reinspect such colonies of bees and, if necessary because infectious or contagious diseases, parasites, or pests are found, subject it to proper treatment or return it to the consignor at his or her expense.

(2) When the State Apiarist or his or her assistants find contagious or infectious diseases, parasites, or pests in colonies of bees shipped from another state under official certificates of inspection, the State Apiarist thereafter may refuse to recognize the certificate of such state until such time as the State Apiarist receives satisfactory information that its inspection service has again become reliable.

(3) Any beekeeper, dealer, firm, or organisation or other person who desires to move colonies of bees into Nebraska shall apply to the State Apiarist for a written entry permit at least sixty days prior to the date such person proposes to enter or entering the state, except that the Director of Agriculture may waive the sixty day requirement upon request when an entry permit is sought for ten colonies or less by a beekeeper who intends to establish Nebraska as his or her new state of residence. A statement shall accompany each application for a permit stating any conviction that the applicant has for violation of any bee law of any state of the United States. The written permit shall accompany all such shipments when they enter the state. Entry into the state without a permit shall be unlawful. Each shipment of bees or each shipment of used bee equipment brought into this state without compliance with this section shall constitute a separate offense.

(4) Each day during which each shipment of bees or each shipment of used bee equipment remains in this state without compliance with this section shall constitute a separate offense. Colonies of bees and used bee equipment brought into the state in violation of this section may be declared a nuisance and be removed from the state within five days after notification by the Department of Agriculture or the department shall be empowered to destroy the colonies, nuclei, or used bee equipment by burning without any

remuneration to the owner. Notification shall be given in writing to the owner or person in charge of such bees or equipment. Written notice may be served by handing a copy thereof to the owner or person in charge of the apiary, by leaving a copy thereof with an adult person residing upon the premises, or by registered or certified mail addressed to the owner or person in charge of such apiary at his or her last-known or reputed address. At the time of application for the entry permit the following conditions shall be met:

{1} (a) A statement of facts from the state apiary ~~inspector~~ regulatory official of the state of origin shall be furnished giving the past three years' disease history of the apiary or apiaries from which such colonies of bees are to originate. {a} (i) A permit may be denied even though an inspection within the last ~~sixty days~~ nine months shows the bees to be free of diseases, parasites, or pests when, in the opinion of the department, the disease, parasite, or pest history during the immediately preceding three years is so high as to warrant concern that the colonies of bees might be carrying hidden diseases, parasites, or pests. {b} (ii) A permit may be denied to anyone having a past record of conviction of willful violation of the bee law in any state of the United States. This shall also pertain to colonies of bees leased by the owner or firm to other persons.

{2} (b) A list of beeyard locations where the colonies of bees can be inspected after they are brought into the state shall be furnished. Such locations shall show county, range, township, section, and quarter section. After the permit is issued, colonies covered by the permit shall be placed on the locations noted on the permit and notice of such placement shall be forwarded by the beekeeper to the State Apiarist within three days after placement. If colonies of bees are placed in unlisted locations, each unlisted location shall constitute a separate violation of law. Ten days in advance of the shipment of the bees, the shipper shall furnish the State Apiarist with a copy of a valid certificate of inspection signed by the state ~~entomologist, apiary inspector, or other responsible~~ regulatory official of the state of origin. This inspection certificate shall be based on an inspection within sixty days by the state apiary regulatory official within nine months prior to shipment, and the percentage of inspection actually made shall be acceptable to the State Apiarist. No inspection certificate shall be accepted from another state where

When American foulbrood was found during the inspection; even though the unless all diseased colonies were destroyed. Where When the percentage of colonies infected with American foulbrood was found is three percent or less of the colonies in the apiary, certification shall be accepted as soon as the diseased colonies are destroyed. When the percentage of colonies infected with American foulbrood is greater than three percent of the colonies in the apiary, the diseased colonies shall be have been destroyed and at least thirty days shall elapse before another inspection for the purpose of certification is made. If no infectious or contagious diseases, parasites, or pests are found on this inspection, a certificate to that effect on the remaining colonies shall be accepted.

(5) Any beekeeper, dealer, firm, or organization or other person who has been denied a permit to enter the state may appeal in writing within ten days for a hearing before the Director of Agriculture.

(6) Open feeding of syrup or honey to bees which allows bees from more than one colony to have access to such syrup or honey shall be unlawful.

(7) Any apiary not regularly attended in accordance with good beekeeping practice and which constitutes a disease, parasite, or pest hazard to the beekeeping industry may be considered an abandoned apiary and shall be subject to seizure by the State Apiarist. Any diseased bee equipment may be burned and the remainder may be sold at public auction, with proceeds after the cost of the sale are deducted to be returned to the former owner or his or her estate, except that before burning any such equipment or causing the same to be sold, the State Apiarist or his or her deputy shall give the owner or person in charge thereof a written notice at least ten days prior to the date on which the property will be burned or sold. Such notice shall be given by registered or certified mail or personally served upon the owner or person in charge of such property.

(8) Any Nebraska beekeeper who keeps bees in a state adjoining Nebraska may upon securing a permit from the State Apiarist of Nebraska haul supers of honey from his or her bees in the adjoining state to his or her honey house in Nebraska for extracting purposes. The State Apiarist shall issue such permit only when he or she has received sufficient evidence from the state apiarist or bee inspector in the adjoining state that no disease, parasite, or pest problem exists in such bees

kept in that state. Such permit shall be carried in the truck with all loads of supers of honey hauled into this state for extracting.

Sec. 49. That section 81-2,173, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,173. Persons desiring to sell or ship bees or queen bees within or out of in Nebraska shall make application in writing before July 1 of each year to the Department of Agriculture for the inspection of their apiaries stating the number of colonies to be inspected and the kind of products to be sold or shipped, and any person failing to comply with this section shall be liable to charges for the expenses of a special trip by the officers or employees of the Department of Agriculture. It shall be the duty of the department as far as possible to cause to be inspected by its duly authorized agents, at least once each year, chiefly between April 1 and October 31, all apiaries known to it in the State of Nebraska, for the purpose of detecting any diseases, parasites, or pests. If upon the inspection of any apiary as above provided it shall appear that such apiary is apparently free from infectious or contagious bee diseases, parasites, or pests, the department shall, at the request of the owner and upon the payment of a certificate fee as provided in section 81-2,174, give or send to the owner of the apiary or the person in charge of it a certificate executed by the department stating the date of inspection and that the apiary is apparently free from infectious or contagious diseases, parasites, or pests, and such certificate shall continue in force, unless revoked for cause as provided in section 81-2,176, until the annual inspection next following the date of inspection. It shall be unlawful for any person to sell or offer for sale or to remove or ship from any apiary or other premises any bees, queen bees, used hives, or used beekeeping equipment until the same has been inspected and a certificate covering them has been granted by the department.

Sec. 50. That section 81-2,176, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,176. If it is found that any certificate issued or approved by the Department of Agriculture (1) is being used in connection with bees, queen bees, or used bee equipment (a) which have not been inspected, (b) which are infected with any infectious or contagious disease, parasite, or pest, or (c) which are being sold

or delivered without the prescribed treatment being observed or other precautionary measures prescribed by the department taken by the owner or (2) is being used by persons other than the one to whom it was issued without the permission of the department, the department may revoke or withdraw such certificate. The use of such certificate issued by the department after it has been revoked and before such revocation has been withdrawn by the department shall be unlawful and shall subject the holder thereof to the penalty prescribed for a violation of ~~sections 81-2,165 to 81-2,180~~ the Nebraska Apiary Act. Revocation or withdrawal of approval shall be through written notice to the holder of the certificate.

Sec. 51. That section 81-2,177.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,177.01. Every person owning, leasing, or possessing colonies of bees shall, on or before the first day of July in each calendar year, register such bee colonies with the State Apiarist. Every person owning, leasing, or possessing more than four colonies of bees on or before the first day of July in each calendar year shall pay to the Department of Agriculture an annual registration fee. The fee shall consist of a fixed amount of seven dollars and fifty cents plus a per colony charge. The colony charge shall be set by the director, but shall not exceed twenty cents per colony. The registration fee shall be due July 1 of each year. A person moving colonies of bees into this state after the first day of July in any calendar year shall register such colonies with the State Apiarist within ten days after entering this state and pay the registration fee for such year within ten days after entering this state. If a beekeeper fails to report and submit such fees by July 31 of each year, he or she shall pay, in addition to such fees, a penalty of twenty-five percent of the fees due if such delinquent fees are paid on or before August 31 and a penalty of fifty percent of the fees due if such delinquent fees are paid after August 31. All fees shall be deposited in the state treasury by the State Treasurer and credited to the State Apiary Cash Fund.

Each person registering a bee colony shall at that time provide the State Apiarist with the exact locations of the colony, describing the county, quarter section, township, and range wherein the colony is located. It shall be unlawful to own, lease, or possess colonies of bees in Nebraska which have not been

registered or for which the registration fee has not been paid pursuant to this section.

Sec. 52. That section 81-2,179, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,179. (1) If the director has reason to believe that any person has violated any of the provisions of the Nebraska Apiary Act or any rules and regulations adopted and promulgated under the act, an order may be entered requiring such person to appear before the director and show cause why an order should not be entered requiring such person to cease and desist from the violations charged. Such order shall set forth the alleged violations, fix the time and place of the hearing, and provide for notice to be given at least twenty days before the date of such hearing. After such hearing, if the director finds such person to be in violation, the director shall enter an order requiring such person to cease and desist from the specific acts, practices, or omissions. Such order shall be a final order. Any person aggrieved may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

(2) The director may apply for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Nebraska Apiary Act, the rules and regulations, or a final order of the director. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(3) It shall be the duty of the Attorney General or the county attorney of the county in which any violation occurs or is about to occur when notified by the Department of Agriculture of a violation or a threatened violation to institute appropriate proceedings either criminal, injunctive, or both without delay.

(4) Any person violating any of the provisions of sections 81-2,165 to 81-2,180 the Nebraska Apiary Act shall be guilty of a Class III misdemeanor.

Sec. 53. That section 81-2,180, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,180. Every person who by agents or representatives shall cause any act to be done in violation of sections 81-2,165 to 81-2,180 the Nebraska

Apiary Act shall be responsible for the acts performed by such agent or representative.

Sec. 54. This section and sections 81-2,165 to 81-2,180 shall be known and may be cited as the Nebraska Apiary Act.

Sec. 55. That section 81-2,239, Revised Statutes Supplement, 1991, be amended to read as follows:

81-2,239. Sections 81-2,239 to 81-2,292 and sections 60 and 62 of this act and the provisions of the Food Service Code, Retail Food Code, Food Salvage Code, Food Vending Code, and Food Processing and Storage Code adopted by reference in sections 81-2,257 to 81-2,261 shall be known and may be cited as the Nebraska Pure Food Act.

Sec. 56. That section 81-2,240, Revised Statutes Supplement, 1991, be amended to read as follows:

81-2,240. For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,256 and section 60 of this act shall be used. In addition, the definitions found in the codes adopted by reference in sections 81-2,257 to 81-2,261 shall be used.

Sec. 57. That section 81-2,247, Revised Statutes Supplement, 1991, be amended to read as follows:

81-2,247. Food Salvage Code shall mean the 1984 Recommendation of the Association of Food and Drug Officials and United States Department of Health and Human Services entitled Model Food Salvage Code, as it exists on June 8, 1985, except sections 1-102(h), 6-401, 6-501, 8-101, 8-201, 11-101, 12-101 through 12-106, 12-201, 12-202, 12-301, 12-401, 12-402, and 12-601 of such code.

Sec. 58. That section 81-2,248, Revised Statutes Supplement, 1991, be amended to read as follows:

81-2,248. Food Service Code shall mean the 1976 Recommendations of the Food and Drug Administration entitled Food Service Sanitation Manual Including A Model Food Service Sanitation Ordinance as it exists on August 1, 1981, except sections 1-102(g)(aa), 4-208, 6-401 through 6-404, 6-501 through 6-504, 7-701 through 7-706, 10-101 through 10-107, 10-201, 10-202, ~~10-205~~ 10-204, 10-301, 10-401, 10-402, 10-601, and 10-602 of such code.

Sec. 59. That section 81-2,250, Revised Statutes Supplement, 1991, be amended to read as

follows:

81-2,250. Food Vending Code shall mean the 1978 Recommendations of the Food and Drug Administration entitled The Vending Of Food And Beverages Including A Model Sanitation Ordinance as it exists on August 1, 1981, except sections 1-102(g), 6-102 through 6-107, 6-203, 6-204, 6-301, 6-601, and 6-602 of such code.

Sec. 60. Potentially hazardous food shall mean any food that consists, in whole or in part, of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. Potentially hazardous food shall not include foods that have a pH level of four and six-tenths or below or a water activity value of eighty-five hundredths or less under standard conditions or food products in hermetically sealed containers processed to prevent spoilage.

Sec. 61. That section 81-2,253, Revised Statutes Supplement, 1991, be amended to read as follows:

81-2,253. Retail Food Code shall mean the 1982 Recommendation of the Association of Food and Drug Officials and United States Department of Health and Human Services entitled Retail Food Store Sanitation Code, as it exists on June 8, 1985, except sections 1-102(o)(w)(x), 5-103(a)(f), 6-401 through 6-404, 6-501 through 6-504, 7-701 through 7-706, 8-101 through 8-107, 8-201, 8-202, ~~8-205~~ 8-204, 8-301, 8-401, 8-402, 8-601, 8-602, 9-102, 9-103, and 9-105 and Parts II and III of such code.

Sec. 62. (1) Whenever an inspection is made of a food service establishment, a mobile food unit or pushcart, a temporary food service establishment, a food processing establishment, or a vending machine operation, the findings shall be recorded on an inspection report form as set out in the Food Service Code.

(2) Whenever an inspection is made of a retail food store, a salvage processing plant, a salvage distributor, or a food storage establishment, the findings shall be recorded on an inspection report form as set out in the Retail Food Code.

(3) The completed inspection report form shall specify a reasonable period of time for the correction of the violations found. This section shall not apply to facilities and equipment which are acceptable pursuant to section 81-2,268. Correction of the

violations shall be accomplished within the period specified in accordance with the following provisions:

(a) All violations of heavily weighted items which consist of those given a numeric value of four or five points shall be corrected within the period of time specified by the regulatory authority but in any event not to exceed ten days following inspection. A follow-up inspection may be conducted to confirm correction;

(b) All violations of lightly weighted items which consist of those given a numeric value of one or two points shall be corrected as soon as possible but in any event by the time of the next routine inspection;

(c) When the rating score of a food establishment or vending machine operation is less than sixty, the food establishment or vending machine operation shall initiate corrective action on all identified violations within forty-eight hours. One or more reinspections shall be conducted at reasonable time intervals to assure correction; and

(d) In the case of temporary food establishments, all violations shall be corrected within twenty-four hours. If violations are not corrected within such time, the temporary food establishment shall immediately cease food service operations until authorized to resume by the regulatory authority.

Sec. 63. That section 88-544, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

88-544. At the election of the warehouse licensee and under rules and regulations adopted and promulgated by the commission, storage in a warehouse operated by such licensee may be terminated on June 30 in any year, except that any storage contract on shelled corn in storage in such warehouse may be terminated under such rules and regulations either on March 31 or on June 30 in any year application to the commission and upon good cause shown according to the rules and regulations of the commission. Subject to such rules and regulations as the commission may adopt and promulgate, any storage contract on any or all such grain may be terminated by the owner at any time by the payment or tender of all legal charges and the surrender of the warehouse receipt, together with a demand for delivery of such grain or notice to sell the same.

Sec. 64. That section 88-547, Revised Statutes Supplement, 1990, be amended to read as follows:

88-547. If the commission determines that a

shortage of grain exists or that the quality of grain in storage is insufficient to meet the obligations at a warehouse, if a license expires and is not renewed, ~~or~~ if a license is surrendered to or canceled or revoked by the commission for violation of any statute or rule or regulation adopted and promulgated by the commission, or if a warehouse is operated without a license, the commission may close the warehouse and do one or more of the following:

(1) Take title to all grain stored in the warehouse at that time in trust for distribution on a pro rata basis to all valid owners, depositors, or storers of grain who are holders of evidence of ownership of grain. No claim of the licensee for grain stored shall be honored until the claims of all other owners, depositors, and storers have been paid in full. Such distribution may be made in grain or in proceeds from the sale of grain;

(2) After notice and hearing (a) determine the value of the shortage and the pro rata loss to each owner, depositor, or storer of grain, (b) require all or part of the warehouse security to be forfeited to the commission, and (c) distribute the security proceeds on such pro rata basis; or

(3) Commence a suit in district court for the benefit of owners, depositors, or storers of grain.

The commission may deposit the proceeds from the security forfeiture under subdivision (2) of this section or the sale of grain under subdivision (1) of this section in an interest-bearing trust account for the benefit of the valid owners, depositors, or storers of grain pending final determination of the valid owners, depositors, or storers and distribution of such proceeds.

Sec. 65. That section 88-549, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

88-549. On or before June 30 of each year At least once each calendar year and not later than one year from the date of receipt of the previous written notice, each warehouse licensee shall send written notice to each person who stores grain in such warehouse at such person's last-known address specifying the type and amount of grain in storage, the location at which the grain is being stored, and the current rate of storage, storage fees that will be charged commencing on July 1 of that year, and the amount of increase or decrease in such fees since July 1 of the previous year. Any warehouse licensee who violates this section shall

be guilty of a Class V misdemeanor.

Sec. 66. The fees charged pursuant to section 89-1,104 shall be remitted by the Public Service Commission to the State Treasurer. The State Treasurer shall credit the first twenty thousand dollars of such fees to the Moisture Testing Examination Fund, which fund is hereby created. The fund shall be appropriated to the Public Service Commission to purchase or repair moisture field and laboratory equipment. The money in such fund may be used at any time by the commission. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

The State Treasurer shall credit any fees in excess of twenty thousand dollars to the General Fund. If at any time the funds in the Moisture Testing Examination Fund drop below twenty thousand dollars, the fees remitted by the Public Service Commission to the State Treasurer shall be credited to the Moisture Testing Examination Fund until such fund has a balance of twenty thousand dollars.

Sec. 67. That section 89-186, Revised Statutes Supplement, 1991, be amended to read as follows:

89-186. (1) The Legislature hereby adopts by reference the following:

(a) The standards of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 44 entitled Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices as it exists on ~~September 6, 1991~~ June 30, 1992. Such handbook shall govern all commercial and law enforcement weighing and measuring devices in the state;

(b) The Uniform Regulation for the Method of Sale of Commodities of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 130 entitled Uniform Laws and Regulations as it exists on ~~September 6, 1991~~ June 30, 1992. Such handbook shall be used to determine the proper units of measurement to be used in the keeping for sale or sale of commodities;

(c) The Uniform Packaging and Labeling Regulation of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 130 entitled Uniform Laws and Regulations as it exists on ~~September 6, 1991~~ June 30, 1992. Such handbook shall govern the packaging and labeling by weight, measure, or count of commodities

kept for sale or sold in this state; and

(d) The procedures designated in National Institute of Standards and Technology Handbook 133 entitled Checking the Net Contents of Packaged Goods as it exists on ~~September 6, 1991~~ June 30, 1992.

(2) Copies of the handbooks adopted by reference in this section shall be filed with the Secretary of State, Clerk of the Legislature, and Department of Agriculture.

(3) Whenever there exists an inconsistency between the provisions of the Weights and Measures Act other than this section and any of the handbooks adopted by reference, the requirements of such provisions of the act shall control.

Sec. 68. That section 89-187, Revised Statutes Supplement, 1991, be amended to read as follows:

89-187. The director shall:

(1) Maintain traceability of the primary standards to the National Institute of Standards and Technology;

(2) Enforce the provisions of the Weights and Measures Act;

(3) Adopt and promulgate reasonable rules and regulations for the enforcement of the act including the following:

(a) Requirements for the voluntary registration of sales and repair personnel for commercial weighing and measuring devices including:

(i) Registration fees for such personnel which shall not exceed the actual cost to defray the operation of the voluntary registration program;

(ii)(A) Qualifications for registration, which may include examinations, (B) performance standards to maintain registration, (C) types of equipment necessary for the work to be performed by the personnel, (D) responsibilities and privileges of registration, and (E) revocation and suspension of such registration and probation of the registrant; and

(iii) Minimum standards for the installation and maintenance of commercial weighing and measuring devices;

(b) Additional standards not specifically provided for in the act;

(c) Standards for (i) attachments or parts entering into the construction or installation of commercial weighing and measuring devices which shall tend to secure correct results in the use of such devices and (ii) the setting of laboratory fees which

shall not exceed the actual cost for testing, correcting, calibrating, and verifying secondary standards and the establishment of standard laboratory operating procedures;

(d) Requirements for the suitable use of commercial weighing and measuring devices; and

(e) Guidelines for the appropriate method of weighing or measuring whenever the director determines that such guidelines would further the purpose of the act;

(4) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the presentation of cost-per-unit information for any commodity;

(5) Upon an application filed with the department by the applicant, grant exemptions, including specific exemptions for single-use commercial weighing and measuring devices, from the provisions of the act or the rules and regulations when the applicant on such application provides assurances, acceptable to the director, that such exemption is appropriate to the maintenance of good commercial practices within the state. Notwithstanding any other provision of the act, meters used by a public utility system for the measurement of electricity, natural or manufactured gas, water, or the usage of communication services, the appliances or accessories associated with such meters, and all weighing and measuring devices inspected or tested by the Public Service Commission shall be exempt from the registration, inspection, and testing requirements of the act, except that this exemption shall not apply to meters which determine the weight or measurement of motor fuel;

(6) Conduct investigations to insure compliance with the act;

(7) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;

(8) In his or her discretion, inspect and test weighing and measuring devices kept for sale or sold;

(9) Inspect and test annually and from time to time, as in the director's judgment seems necessary, to ascertain whether commercial weighing and measuring devices are correct;

(10) Register and test as far as practical all commercial weighing and measuring devices used in checking the receipt or disbursement of supplies in every institution for which funds are appropriated by the Legislature;

(11) Test annually and at the request of the Nebraska State Patrol all weighing and measuring devices used for the enforcement of the provisions of sections 39-6,180, 60-329, and 60-331. The agency responsible for such weighing and measuring devices shall pay the department for the actual cost of such tests. The department shall bill test fees to such agency upon completion of the test;

(12) Approve for use and may mark commercial weighing and measuring devices which the director finds to be correct and shall reject and mark as rejected such commercial weighing and measuring devices which the director finds to be not correct. Commercial weighing and measuring devices that have been rejected may be seized if not made correct within the time specified or if used or disposed of in a manner not specifically authorized. The director shall condemn and may seize commercial weighing and measuring devices which are found not to be correct and not capable of being made correct;

(13) Weigh, measure, or inspect commodities kept for sale, sold, or in the process of delivery to determine whether they contain the amounts represented and whether they are kept for sale or sold in accordance with the act or the rules and regulations. When commodities are found not to contain the amounts represented or are found to be kept for sale, sold, or in the process of delivery in violation of the act, the director may issue stop-sale, hold, or removal orders and may mark or tag such commodities as being in violation of the act. In carrying out the provisions of this section, the director shall employ recognized procedures pursuant to subdivisions (1)(b) through (d) of section 89-186;

(14) Provide for the weights and measures training of inspection personnel and adopt and promulgate by rule and regulation minimum training requirements which shall be met by all inspection personnel;

(15) Adopt and promulgate rules and regulations prescribing the appropriate term or unit of measurement to be used whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion;

(16) Allow reasonable variations from the stated quantity of contents which shall include those

caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce;

(17) On or before July 1 of each year, notify all persons who have registered any commercial weighing or measuring device of the amount of fees which are due and that such fees shall be due on August 1 of each year and shall be delinquent after such date;

(18) Require, on and after August 1, 1992, all persons who operate a weighing and measuring establishment to obtain a permit to operate such establishment pursuant to section 89-187.01 and to pay to the department an application permit fee pursuant to section 89-187.02; and

(19) Require, on or before August 1 of each year, all persons who operate a weighing and measuring establishment to: (a) Register each commercial weighing and measuring device with the department upon forms furnished by the director; (b) pay to the department a registration fee in the amounts designated in column A; (c) pay device inspection fees to the department in the amounts designated in column B:

Seales-	A	B	Total Fees
Up to 35 pounds capacity	3-00	4-00	7-00
Multiunit Seales	3-00	33-00	36-00
Over 35 to 600 pounds capacity	3-00	6-00	9-00
Over 600 to 4,000 pounds capacity	3-00	9-00	12-00
Over 4,000 to 20,000 pounds capacity	3-00	13-00	16-00
Over 20,000 to 50,000 pounds capacity	3-00	21-00	24-00
Over 50,000 to 75,000 pounds capacity	3-00	23-00	26-00
Over 75,000 to 150,000 pounds capacity	3-00	28-00	31-00
Over 150,000 to 400,000 pounds capacity	3-00	32-00	35-00
Length Measuring Devices	3-00	3-00	6-00
Pumps-			
Service Station Dispensers -- per hose	3-00	4-00	7-00
High-capacity service station dispensers over 20 gallons per minute -- per hose	3-00	10-00	13-00
Meters-			
Vehicle tank meters	3-00	10-00	13-00
Loading rack meters	3-00	10-00	13-00
Liquid petroleum gas meters	3-00	18-00	21-00

<u>Liquid fertilizer meters</u>	3-00	21-00	24-00
<u>Liquid feed meters</u>	3-00	21-00	24-00;
<u>Scales:</u>	A	B	Total Fees
<u>Up to 35 pounds capacity</u>	4.00	7.00	11.00
<u>Multiunit Scales</u>	4.00	33.00	37.00
<u>Over 35 to 1,000 pounds capacity</u>	4.00	10.00	14.00
<u>Over 1,000 to 4,000 pounds capacity</u>	4.00	21.00	25.00
<u>Over 4,000 to 50,000 pounds capacity</u>	4.00	25.00	29.00
<u>Over 50,000 to 150,000 pounds capacity</u>	4.00	30.00	34.00
<u>Over 150,000 pounds capacity</u>	4.00	51.00	55.00
<u>Length Measuring Devices:</u>			
<u>Cordage or fabric</u>	4.00	9.00	13.00
<u>Pumps:</u>			
<u>Service Station Dispensers -- per hose</u>	4.00	5.00	9.00
<u>High-capacity service station dispensers over 20 gallons per minute -- per hose</u>	4.00	12.00	16.00
<u>Compressed natural gas -- per hose</u>	4.00	50.00	54.00
<u>Meters:</u>			
<u>Vehicle tank meters</u>	4.00	12.00	16.00
<u>Loading rack meters</u>	4.00	22.00	26.00
<u>Liquid petroleum gas meters</u>	4.00	20.00	24.00
<u>Liquid fertilizer meters</u>	4.00	27.00	31.00
<u>Liquid feed meters</u>	4.00	27.00	31.00
<u>Cryogenic</u>	4.00	50.00	54.00
<u>Mass Flow Metering Systems:</u>			
<u>Mass flow meters (all liquid)</u>	4.00	50.00	54.00;

and (d) pay a penalty as may be required by the department of twenty-five percent per month of the fees for each month any such fees are delinquent not to exceed one hundred percent of such fees. Such penalties paid shall be in addition to the fees due. The department's decision regarding whether penalties will be imposed shall be based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fees.

Sec. 69. Sections 2, 3, 4, 5, and 71 of this act shall become operative on July 1, 1992. Sections 67, 68, and 72 of this act shall become operative three calendar months after the adjournment of this legislative session. The other sections of this act shall become operative on their effective date.

Sec. 70. That original sections 2-3505,

2-4325, 54-785, 54-786, 54-788, 54-792, 54-793, 54-796, 54-849, 54-852, 54-854, 54-855, 54-856, 54-858, 54-859, 54-860, 54-863, 81-262, 81-2,162.02, 81-2,162.03, 81-2,162.05, 81-2,162.07, 81-2,162.11, 81-2,162.12, 81-2,162.13, 81-2,162.15, 81-2,162.16, 81-2,162.17, 81-2,162.18, 81-2,162.20, 81-2,162.21, 81-2,162.23, 81-2,162.25, 81-2,165, 81-2,166, 81-2,167, 81-2,168, 81-2,169, 81-2,170, 81-2,171, 81-2,173, 81-2,176, 81-2,177.01, 81-2,179, 81-2,180, 88-544, and 88-549, Reissue Revised Statutes of Nebraska, 1943, sections 81-2,147.01, 81-2,162.06, and 88-547, Revised Statutes Supplement, 1990, and sections 54-2297, 81-2,239, 81-2,240, 81-2,247, 81-2,248, 81-2,250, and 81-2,253, Revised Statutes Supplement, 1991, and also section 54-851, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 71. That original sections 2-3901, 2-3905, 2-3906, and 2-3912, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 72. That original sections 89-186 and 89-187, Revised Statutes Supplement, 1991, are repealed.

Sec. 73. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.