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SENATE BILL 214

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Crystal Brantley

AN ACT

RELATING TO THE NEW MEXICO DEPARTMENT OF AGRICULTURE; UPDATING ACTS OVER WHICH THE DEPARTMENT HAS ADMINISTRATION AND ENFORCEMENT POWERS AND DUTIES; PROVIDING FOR A STANDARDIZED ADMINISTRATIVE PENALTY SYSTEM; CONFORMING REGULATION TO CURRENT STANDARD PRACTICES; DEFINING ADDITIONAL TERMS; INCREASING FEE AND FINE CAPS; PRESCRIBING PENALTIES; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new Section 76-1-6 NMSA 1978 is enacted to read:

"76-1-6. [NEW MATERIAL] ADMINISTRATIVE FINES--SYSTEM OF PROGRESSIVE PENALTIES--INJUNCTION--CRIMINAL PENALTY.--

A. The board of regents of New Mexico state university by rule may design a system of administrative

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1 penalties for the New Mexico department of agriculture to use
2 to determine the administrative penalty for particular
3 violations of state laws for which the department is charged
4 with enforcing and as provided by law. Administrative
5 penalties may be assessed in lieu of or in addition to other
6 penalties provided by law. The assessment of penalties shall
7 take into consideration the nature of the violation; the
8 frequency of violation; the seriousness of the violation and
9 its effect on the environment, consumers, industry and economy;
10 the failure of the licensee or other person to correct the
11 violation after notice from the department; and the deterrent
12 effect on future violations.

13 B. Failure to pay an administrative penalty or take
14 action to correct a violation may result in suspension or
15 revocation of licensure or the assessment of three times the
16 maximum penalty provided by law, or both. The notice of
17 violation, the time allowed for correction, the possible
18 suspension or revocation of a license or denial of license
19 application or renewal, the assessment of a penalty and the
20 person's right to a hearing shall follow the procedures of the
21 Administrative Procedures Act. A final agency decision on the
22 assessment of a penalty is a final agency action and may be
23 appealed as provided by Section 39-3-1.1 NMSA 1978.

24 C. Willfully and knowingly or repeatedly refusing
25 to correct a violation or pay administrative penalties is a

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1 fourth degree felony and may be punished by a definite term of
2 up to eighteen months in prison or fine of up to fifteen
3 thousand dollars (\$15,000), or both.

4 D. In addition to other remedies at law, the New
5 Mexico department of agriculture may apply for and the court
6 may grant a temporary or permanent injunction restraining a
7 person from violating or continuing to violate any of the
8 provisions of acts and rules promulgated in accordance with
9 those acts for which the department has administrative and
10 enforcement powers and duties. The injunction shall be issued
11 without bond.

12 E. All administrative penalties shall be deposited
13 in the state treasury to the credit of the current school fund
14 as provided in Article 12, Section 4 of the constitution of New
15 Mexico."

16 SECTION 2. Section 76-4-1 NMSA 1978 (being Laws 1973,
17 Chapter 366, Section 1) is amended to read:

18 "76-4-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article 4
19 NMSA 1978 may be cited as the "Pesticide Control Act"."

20 SECTION 3. Section 76-4-6 NMSA 1978 (being Laws 1973,
21 Chapter 366, Section 6) is amended to read:

22 "76-4-6. REGISTRATION.--

23 A. Each pesticide or device that is distributed
24 within the state or delivered for transportation or transported
25 in intrastate commerce or between points within this state

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1 through any point outside this state shall be registered with
2 the department subject to the provisions of the Pesticide
3 Control Act. However, the registration is not required if a
4 pesticide is shipped from one plant or warehouse to another
5 plant or warehouse operated by the same person and used solely
6 at ~~[such]~~ that plant or warehouse as a constituent part to make
7 a pesticide ~~[which]~~ that is registered under the provisions of
8 the Pesticide Control Act.

9 B. The applicant for registration shall file a
10 statement with the board ~~[which]~~ that includes:

11 (1) the name and address of the applicant and
12 the name and address of the person whose name will appear on
13 the label, if other than the applicant's;

14 (2) the name of the pesticide or device;

15 (3) other necessary information required for
16 completion of the application for registration form;

17 (4) a complete copy of the labeling
18 accompanying the pesticide or device and a statement of all
19 claims including the directions and precautions for use; and

20 (5) the use classification of the pesticide if
21 required by federal or state regulations.

22 C. The department, when it deems it necessary in
23 the administration of the Pesticide Control Act, may require
24 the submission of the complete formula of any pesticide,
25 including all ingredients ~~[which]~~ that will prevent, destroy,

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1 repel, control or mitigate pests or [~~which~~] that will act as a
2 plant regulator, defoliant, desiccant or those [~~which~~] that act
3 as a functioning agent in a spray adjuvant, and all ingredients
4 [~~which~~] that do not perform these functions.

5 D. The department may require a full description of
6 the tests made and the results [~~thereof~~] upon which the claims
7 are based on any pesticide or device or on any pesticide or
8 device on which restrictions are being considered. In the case
9 of renewal of registration, the applicant shall be required to
10 furnish only information [~~which~~] that is different from that
11 furnished when the pesticide was registered or reregistered
12 during the previous license year.

13 E. The board may prescribe other necessary
14 information by [~~regulation~~] rule.

15 F. The applicant desiring to register a pesticide
16 or device shall pay [~~an annual~~] a prescribed [~~registration~~] fee
17 for each pesticide or device [~~registered~~] submitted for initial
18 registration or renewal.

19 G. [~~Any~~] A registration approved by the department
20 and in effect on December 31 of the year for which a renewal
21 application has been made and the [~~proper~~] renewal fee paid
22 shall continue in full force [~~and effect~~] until the department
23 notifies the applicant that the registration has been renewed
24 or denied in accord with the provisions of the Pesticide
25 Control Act. Forms for reregistration shall be mailed to

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1 registrants at least thirty days prior to the due date.

2 H. If it appears to the department that the
3 composition of the pesticide warrants the proposed claims for
4 it and if the pesticide or device and its labeling and other
5 material submitted comply with the requirements of the
6 Pesticide Control Act, the department shall register the
7 pesticide or device.

8 I. All federal, state and county agencies or
9 municipalities shall register all pesticides or devices
10 distributed by them but shall not be required to pay the
11 registration fee."

12 SECTION 4. Section 76-4-20 NMSA 1978 (being Laws 1973,
13 Chapter 366, Section 20, as amended) is amended to read:

14 "76-4-20. PRIVATE APPLICATORS.--

15 A. No private applicator shall use a restricted use
16 pesticide without first complying with the certification
17 requirements determined by the department as necessary to
18 prevent unreasonable adverse effects on the environment,
19 including injury to the applicator or other persons.

20 B. In determining these certification requirements,
21 the board shall take into consideration standards of the United
22 States environmental protection agency. Certification
23 requirements for a private applicator to be certified to use
24 restricted use pesticides may include but ~~[shall]~~ not be
25 limited to the following:

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1 (1) the applicant shall acknowledge that [~~he~~]
2 the applicant understands and will abide by the label
3 precautions by signing a dealer's pesticide register. The
4 register shall include the name and address of the private
5 applicator and other information as prescribed by the
6 department. The dealer shall keep a record of all restricted
7 use pesticides distributed to a private applicator;

8 (2) the applicant shall obtain a user permit
9 prior to purchase and use of the pesticide. The department may
10 issue restricted use pesticide permits to private applicators
11 who have documented the crops, location and acreage on the
12 permit for the seasonal or temporary period for which their
13 permit is issued. User permits shall only be issued for
14 registered or experimental uses and shall be subject to other
15 limitations as specified by the department. The limitations
16 may include limiting the areas of use, the timing or method of
17 application and limiting the amount of the pesticide to that
18 needed to cover the acreage to be treated;

19 (3) the applicant shall be required to pass a
20 written examination demonstrating [~~his competency~~] competency
21 with respect to the use and handling of the pesticide or
22 pesticides covered by [~~his~~] certification prior to purchase and
23 use of the product. Examination material shall address all
24 elements stated in category-specific standards of competence in
25 Sections 171.105, 171.303(a)(1), 171.303(a)(3) and

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1 171.303(b)(3)(ii)-(iv) of the Code of Federal Regulations; and

2 (4) the applicant shall be required to obtain
3 approval from the department for each application involving a
4 specific risk to the environment. The applicant shall submit
5 to the department an application form for a special review
6 permit. The application shall include detailed information on
7 the intended use, the responsible person in charge and the
8 equipment and conditions under which the pesticide application
9 is to be made. The department in reviewing the application for
10 a special review permit may require additional restrictions
11 such as on-site inspection or supervision.

12 C. The department shall charge the prescribed fee
13 for each certification.

14 D. If a private applicator does not qualify, the
15 department shall inform the applicant in writing.

16 E. Private applicator certification shall be valid
17 for a period of not less than three years as established by the
18 board."

19 SECTION 5. Section 76-4-22 NMSA 1978 (being Laws 1973,
20 Chapter 366, Section 22, as amended) is amended to read:

21 "76-4-22. FEES.--

22 A. Fees for the registration of pesticides, the
23 various licenses, inspection of apparatuses and examination of
24 applicants required by the Pesticide Control Act shall be set
25 by the board not to exceed the amount authorized below:

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- 1 (1) initial application or annual
2 [~~registration~~] renewal fee for each pesticide or device
3 [~~registered~~] not more than. [~~\$150~~] \$300;
- 4 (2) annual pesticide dealer license for each
5 location or outlet within the state or, if there is no outlet
6 in the state, for the principal out-of-state location or
7 outlet, not more than \$100;
- 8 (3) annual pest management consultant license,
9 not more than \$100;
- 10 (4) annual commercial pesticide applicator
11 license, not more than. \$100;
- 12 (5) annual operator license, not more
13 than \$75.00;
- 14 (6) annual noncommercial applicator license,
15 not more than \$100;
- 16 (7) private applicator certification or
17 renewal, not more than. \$25.00;
- 18 (8) additional inspection required to certify
19 each unit of aircraft, ground or manual equipment that fails to
20 pass inspection, not more than. \$25.00; and
- 21 (9) examination fee for each examination
22 needed to qualify the applicant as a pest management
23 consultant, commercial pesticide applicator, noncommercial
24 applicator or operator or any combination thereof, not more
25 than. \$20.00.

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1 B. If the application for the renewal of a
2 pesticide registration or any annual license provided for in
3 the Pesticide Control Act is not filed prior to the expiration
4 date of the prior registration or license, the fee for renewal
5 of registration or license shall be double the amount specified
6 in this section and shall be paid by the applicant before the
7 renewal registration or license is issued. Any person holding
8 a current valid license may renew the license for the next year
9 without taking an examination unless the department determines
10 that additional knowledge relating to the classification for
11 which the applicant has applied makes a new examination
12 necessary. However, if the license is not renewed within
13 thirty days after expiration, the licensee shall be required to
14 take new certification examinations."

15 SECTION 6. Section 76-4-23 NMSA 1978 (being Laws 1973,
16 Chapter 366, Section 23, as amended) is amended to read:

17 "76-4-23. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF
18 LICENSE, PERMIT OR CERTIFICATION--ACTS CONSTITUTING A VIOLATION
19 OF THE PESTICIDE CONTROL ACT.--

20 A. The department may deny application for any
21 license, permit or certification or may suspend or revoke any
22 license, permit or certification when it has reason to believe
23 that the applicant for or the holder of such license, permit or
24 certification has violated any of the provisions of Subsection
25 B of this section.

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1 B. It is a violation of the Pesticide Control Act
2 for any person to:

3 (1) make a false or fraudulent claim through
4 any media [~~which~~] that misrepresents the effect of material or
5 methods to be used;

6 (2) make a pesticide recommendation or to use
7 a pesticide in a manner inconsistent with the labeling;

8 (3) apply known ineffective or improper
9 materials;

10 (4) operate faulty or unsafe apparatus;

11 (5) operate in a faulty, careless or negligent
12 manner;

13 (6) refuse or, after notice, neglect to comply
14 with the provisions of the Pesticide Control Act or the rules
15 and regulations adopted pursuant [~~thereto~~] to that act;

16 (7) refuse or neglect to keep and maintain the
17 records or to make reports when and as required by the
18 Pesticide Control Act or rules and regulations adopted pursuant
19 [~~thereto~~] to that act;

20 (8) make false or fraudulent records, invoices
21 or reports;

22 (9) engage in the business of applying a
23 pesticide on the land of another without having a licensed
24 applicator or operator in direct "on-the-job" supervision;

25 (10) use fraud or misrepresentation in making

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1 an application for a license or renewal of a license;

2 (11) refuse or neglect to comply with any
3 limitation or restriction on or in a duly issued license or
4 permit;

5 (12) aid or abet a licensed or an unlicensed
6 person to evade any provision of the Pesticide Control Act,
7 conspire with a licensed or an unlicensed person to evade the
8 provisions of [~~the Pesticide Control~~] that act or allow one's
9 license to be used by an unlicensed person;

10 (13) make false or misleading statements
11 during or after an inspection concerning any infestation or
12 infection of pests found on land;

13 (14) impersonate any state, county or [~~city~~]
14 municipal inspector or official;

15 (15) perform the type of pest control under
16 the conditions and in the locality in which [~~he~~] the person
17 operates or has operated, whether or not [~~he~~] the person has
18 previously passed an examination, when not qualified;

19 (16) use or supervise the use of a pesticide
20 [~~which~~] that is restricted to use by certified applicators when
21 not qualified as a certified applicator; or

22 (17) make pesticide recommendations or apply
23 pesticides without having the proper certification or license.

24 C. Any person who has had a license, permit or
25 certification denied, suspended or revoked by the department

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1 may request a hearing before the department. The request for a
2 hearing shall be made within fifteen days of receipt of a
3 certified letter notifying ~~[him]~~ the person of the department's
4 action."

5 SECTION 7. Section 76-4-34 NMSA 1978 (being Laws 1973,
6 Chapter 366, Section 34, as amended) is repealed and a new
7 Section 76-4-34 NMSA 1978 is enacted to read:

8 "76-4-34. [NEW MATERIAL] PENALTIES--NOTICE OF
9 VIOLATION.--The department may assess an administrative penalty
10 not to exceed five thousand dollars (\$5,000) for each violation
11 of the Pesticide Control Act or rules promulgated in accordance
12 with that act and may suspend, revoke or deny renewal of a
13 license. The penalty shall be assessed as provided in Section
14 76-1-6 NMSA 1978."

15 SECTION 8. Section 76-4-38 NMSA 1978 (being Laws 1973,
16 Chapter 366, Section 38) is amended to read:

17 "76-4-38. COOPERATION.--The department may cooperate,
18 receive grants-in-aid and enter into cooperative agreements
19 with any agency of the federal government, of this state or its
20 subdivisions or with any agency of another state in order to:

- 21 A. secure uniformity of regulations;
22 B. enter into cooperative agreements with the
23 United States environmental protection agency to register
24 pesticides under the authority of the Pesticide Control Act and
25 the Federal Environmental Pesticide Control Act of 1972;

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1 C. cooperate in the enforcement of the Federal
2 [~~Environmental Pesticide Control~~] Insecticide, Fungicide and
3 Rodenticide Act and federal regulations through the use of
4 state or federal personnel and facilities or both and to
5 implement cooperative enforcement programs, including [~~but not~~
6 ~~limited to~~] the registration of pesticides, collection and
7 analysis of pesticides and devices, inspection of storage
8 facilities and certification of applicators;

9 D. enter into contracts with other agencies,
10 including federal agencies, for the purpose of training
11 pesticide dealers, pesticide management consultants, pesticide
12 applicators or operators;

13 E. publish information and conduct short courses on
14 the storage, transportation, distribution, application, use,
15 registration and disposal of pesticides and devices and
16 environmental implications thereof;

17 F. enter into contracts for either monitoring
18 pesticides or analyzing land, including agricultural products
19 that will be consumed by any living organism other than plants,
20 for pesticide residues or both;

21 G. prepare and submit a state plan to meet federal
22 certification standards, including issuing experimental use
23 permits; and

24 H. regulate pesticide applicators and operators."

25 SECTION 9. Section 76-4-39 NMSA 1978 (being Laws 1973,

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1 Chapter 366, Section 39) is amended to read:

2 "76-4-39. DISPOSITION OF FUNDS.--~~[All moneys]~~ Money from
3 fees or other sources except for administrative penalties
4 received by the department under the provisions of the
5 Pesticide Control Act shall be expended for the purpose of
6 carrying out the provisions of the Pesticide Control Act."

7 SECTION 10. Section 76-5-12 NMSA 1978 (being Laws 1959,
8 Chapter 195, Section 2, as amended) is amended to read:

9 "76-5-12. DEFINITIONS.--As used in the Plant Protection
10 Act:

11 A. "board" means the board of regents of New Mexico
12 state university, the board controlling the New Mexico
13 department of agriculture;

14 B. "plant pests" or "pests" means any organisms
15 injurious to plants and plant products that in the normal
16 course of events could be transported with the plant, including
17 ~~[but not limited to]~~ the phyla arthropoda, mollusca or nematoda
18 as well as weeds, fungi, bacteria, viruses or parasitic plants
19 that cause pathological or detrimental physiological conditions
20 in plants;

21 C. "nursery stock" means any plant grown,
22 propagated or collected for planting or propagated for
23 landscaping or decorative purposes but does not include field,
24 vegetable and flower seeds;

25 D. "florist stock" means any parts of a plant used

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1 for decorative purposes, such as cut flowers, evergreens,
2 annuals or perennials;

3 E. "nursery" means any ground or premises on or in
4 which nursery stock is propagated, grown or cultivated and from
5 which source nursery stock is offered for distribution or sale;

6 F. "dealer" means any person who buys and resells
7 nursery or florist stock, or who is engaged in handling nursery
8 or florist stock on a consignment basis, when the stock was not
9 grown on the person's premises;

10 G. "agent" means any person selling or taking
11 orders for nursery or florist stock not sold from any stock on
12 hand for display purposes and is being offered directly to the
13 consumer;

14 H. "facilities" means all buildings, greenhouses,
15 vehicles, storage places, cellars, pits, trenches, bins,
16 containers, packing material, crates and any other facilities
17 and materials used in storing and distributing nursery or
18 florist stock;

19 I. "collected plants" means those plants dug or
20 gathered from any location in which plants are found growing
21 wild;

22 J. "inspector" means any qualified person employed
23 by the department to carry out the provisions of the Plant
24 Protection Act;

25 K. "landscaper" means any person who buys and

.229578.4SA

1 resells, in connection with the person's design services,
2 plants used in landscaping;

3 L. "plant" means any part of any living thing not
4 classified as an animal, which under the proper conditions can
5 either continue [~~to~~] or resume growing;

6 M. "stock" means nursery or florist stock or both;

7 N. "department" means the New Mexico department of
8 agriculture;

9 O. "package" means any bundle, parcel, box, carton,
10 crate or container used in shipping or displaying nursery or
11 florist stock; [~~and~~]

12 P. "license year" means a period of twelve months
13 ending on a date specified by the board;

14 Q. "cactus plant" means a succulent plant native to
15 arid regions of North or South America;

16 R. "farmer's market" means a location that allows
17 plants grown on land owned or leased by registered members for
18 sale on a temporary basis not to exceed fourteen consecutive
19 days;

20 S. "florist" means a person who buys and resells
21 florist stock and whose primary sales comprise more than
22 seventy-five percent cut flowers;

23 T. "producer" means a person growing nursery stock
24 from seed, seedling or cutting; and

25 U. "vegetable plant" means a plant grown that at

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1 maturity is capable of producing a vegetable that may be used
2 for human consumption."

3 SECTION 11. Section 76-5-13 NMSA 1978 (being Laws 1959,
4 Chapter 195, Section 3, as amended) is amended to read:

5 "76-5-13. AUTHORITY TO INSPECT.--The department may
6 inspect any nursery or other place or vehicle that might become
7 infested or infected with plant pests or that may contain [~~from~~
8 ~~time to time~~] plants so infested or infected. The department
9 may inspect or reinspect any nursery or florist stock within
10 the state and inspect associated documentation. Nursery or
11 florist stock or other plant material not found to meet
12 viability standards as provided in Section 76-5-20 NMSA 1978
13 may be destroyed or removed from sale or managed in a manner
14 deemed necessary by the department until the conditions are
15 corrected."

16 SECTION 12. Section 76-5-15 NMSA 1978 (being Laws 1959,
17 Chapter 195, Section 6, as amended) is amended to read:

18 "76-5-15. INSPECTION OF NURSERIES.--The department is
19 authorized to inspect all nurseries in the state, [~~and~~] all
20 nursery stock grown within the state, all nursery stock
21 imported into the state and all nursery stock transported
22 through the state. If the nursery stock is found to be free of
23 plant pests, [~~an inspection certificate shall be issued~~
24 ~~certifying that the nursery stock has been inspected and is~~
25 ~~believed to be free from plant pests. The certificate shall be~~

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1 ~~valid for one license year~~ the license shall remain in good
2 standing. If, at any subsequent inspection, the nursery is
3 found to be infested with plant pests, the ~~[certificate]~~
4 license may be ~~[canceled]~~ suspended until the conditions are
5 corrected or revoked."

6 SECTION 13. Section 76-5-16 NMSA 1978 (being Laws 1959,
7 Chapter 195, Section 7, as amended) is amended to read:

8 "76-5-16. ~~[DEALERS', OR AGENTS']~~ NURSERY, DEALER,
9 PRODUCER OR AGENT LICENSES.--Every in-state nursery, dealer,
10 producer or agent selling, importing into the state or storing
11 in this state nursery or florist stock shall, ~~[before October 1~~
12 ~~of each year and]~~ before engaging in the business of
13 soliciting, landscaping, taking orders, selling, storing or
14 delivering any such stock, apply to the department for a
15 nursery, ~~[or]~~ florist, ~~[dealer's, landscaper's or agent's]~~
16 dealer, landscaper or agent license. Nurseries, dealers,
17 producers or agents distributing stock directly or on a
18 consignment basis for more than one store or place of business
19 or sales ground or selling stock from motor vehicles or other
20 vehicles shall secure a license for each place or each vehicle
21 from which the stock is sold. The application for license
22 shall designate ~~[each]~~ a single place of business ~~[of]~~ for the
23 person applying. The application shall be accompanied by the
24 prescribed fee for each place or each vehicle from which the
25 stock is sold. A separate application shall be submitted for

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1 each location. Upon [~~proper~~] a complete application and
2 receipt of the [~~proper fee~~] applicable fees, the department
3 shall issue the license, which shall be valid for one license
4 year. If any licensee is found to have violated any of the
5 provisions of the Plant Protection Act or rules [~~regulations or~~
6 ~~orders of the department~~] promulgated in accordance with that
7 act, the license may be revoked and, [~~in~~] at the discretion of
8 the department, the person may be refused a license in the
9 state. [~~Those~~] Dealers who sell only vegetable plants [~~that~~
10 ~~are sold~~] for food production or dealers selling only cactus
11 plants may obtain a special dealer's license for the prescribed
12 fee. Applicants for the special dealer's license shall state
13 that they will handle only vegetable plants or cactus plants
14 [~~and that the plants will be from stock certified by an~~
15 ~~inspector~~]."

16 SECTION 14. Section 76-5-19 NMSA 1978 (being Laws 1959,
17 Chapter 195, Section 10, as amended) is amended to read:

18 "76-5-19. LABELS.--All nursery stock and collected plants
19 sold, handled, installed or [~~trafficked~~] off-loaded in the
20 state shall be securely and correctly labeled [~~either as to~~]
21 with common [~~or~~] and botanical names based on a current and
22 recognized industry reference. All labels shall indicate the
23 origin and nursery of production."

24 SECTION 15. Section 76-5-20 NMSA 1978 (being Laws 1973,
25 Chapter 97, Section 9, as amended) is repealed and a new

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1 Section 76-5-20 NMSA 1978 is enacted to read:

2 "76-5-20. [NEW MATERIAL] PEST-FREE NURSERY AND FLORIST
3 STOCK.--Only pest-free nursery stock shall be offered for sale
4 or sold. The offering for sale or sale of nursery stock
5 infested or infected with a plant pest is a violation of the
6 Plant Protection Act."

7 SECTION 16. Section 76-5-21 NMSA 1978 (being Laws 1959,
8 Chapter 195, Section 11, as amended) is amended to read:

9 "76-5-21. COLLECTED PLANTS.--All persons collecting
10 plants for sale [~~must~~] shall file with the department an
11 application for a collected plants [~~permit~~] license. The board
12 may adopt [~~regulations~~] rules relative to collected plants."

13 SECTION 17. Section 76-5-25 NMSA 1978 (being Laws 1959,
14 Chapter 195, Section 15, as amended) is amended to read:

15 "76-5-25. POWERS OF BOARD AND DEPARTMENT.--The department
16 shall enforce the provisions of the Plant Protection Act. The
17 board shall adopt and promulgate such rules as may be necessary
18 for its administration and enforcement, including defining
19 license year. The board may adopt sets of standards and grades
20 for nursery stock and [~~if it so desires~~] florist stock and
21 adopt those standards and grades recommended by an industry-
22 recognized reference, [~~to~~] take any action necessary to ensure
23 that all nursery stock sold in the state meets the standards
24 and grades established and [~~to~~] stop sales of any substandard
25 stock."

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1 SECTION 18. Section 76-5-26 NMSA 1978 (being Laws 1973,
2 Chapter 97, Section 15, as amended) is amended to read:

3 "76-5-26. FEES.--

4 A. Fees paid for ~~[the]~~ licenses ~~[certificates and~~
5 ~~permits]~~ required ~~[under]~~ by the Plant Protection Act shall be
6 set by ~~[regulation]~~ rule of the board but shall not exceed the
7 following amounts:

8 ~~[(1) annual inspection fee of nursery and~~
9 ~~nursery stock, seventy-five dollars (\$75.00), plus two dollars~~
10 ~~(\$2.00) per acre of nursery stock inspected;~~

11 ~~(2) annual special inspection fee for person~~
12 ~~growing only vegetable plants, twenty-five dollars (\$25.00);~~

13 ~~(3) annual nursery or florist dealer's,~~
14 ~~landscaper's or agent's license fee, seventy-five dollars~~
15 ~~(\$75.00);~~

16 ~~(4) annual special dealer's license for~~
17 ~~persons who handle only vegetable or cactus plants, twenty-five~~
18 ~~dollars (\$25.00); and~~

19 ~~(5) annual fee for collected plants permit,~~
20 ~~seventy-five dollars (\$75.00)]~~

21 (1) annual nursery stock producer license,
22 three hundred twenty-five dollars (\$325), plus ten dollars
23 (\$10.00) per acre of nursery stock production area;

24 (2) annual vegetable plant producer license
25 for a person growing only vegetable plants, one hundred dollars

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1 (\$100);

2 (3) annual nursery dealer, landscaper or agent
3 license, three hundred twenty-five dollars (\$325);

4 (4) annual florist license, two hundred
5 dollars (\$200);

6 (5) annual collected plant license, three
7 hundred twenty-five dollars (\$325);

8 (6) annual vegetable plant dealer license for
9 persons who only sell or distribute vegetable plants, one
10 hundred dollars (\$100);

11 (7) annual cactus dealer license for persons
12 who only sell or distribute cacti and other succulents, one
13 hundred dollars (\$100); and

14 (8) annual farmer's market license, three
15 hundred twenty-five dollars (\$325).

16 B. If the complete application and applicable fees
17 for renewal of [any] an annual license [~~permit or certificate~~]
18 provided for in the Plant Protection Act [~~is~~] are not filed
19 prior to the expiration of the prior license [~~permit or~~
20 ~~certificate~~], the fee for [~~such~~] the license [~~permit or~~
21 ~~certificate~~] shall be double the amount specified in this
22 section; provided, however, that this double fee shall not
23 apply if the applicant has not engaged in business subsequent
24 to the expiration of [~~his~~] the prior license [~~permit or~~
25 ~~certificate~~] and furnishes an affidavit certifying to that

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1 fact.

2 C. The board may adopt ~~[regulations]~~ rules to
3 exempt a person from the payment of fees."

4 SECTION 19. Section 76-5-27 NMSA 1978 (being Laws 1959,
5 Chapter 195, Section 16, as amended) is amended to read:

6 "76-5-27. FEES COLLECTED.--

7 A. All fees collected ~~[under]~~ pursuant to the
8 provisions of the Plant Protection Act shall be deposited ~~[in~~
9 ~~the treasury of the]~~ with New Mexico state university and be
10 expended ~~[for the purpose of its administration and~~
11 ~~enforcement]~~ to administer and enforce that act.

12 B. Administrative penalties shall be deposited in
13 the state treasury to the credit of the current school fund as
14 provided in Article 12, Section 4 of the constitution of New
15 Mexico."

16 SECTION 20. Section 76-5-28 NMSA 1978 (being Laws 1959,
17 Chapter 195, Section 17, as amended) is repealed and a new
18 Section 76-5-28 NMSA 1978 is enacted to read:

19 "76-5-28. [NEW MATERIAL] PENALTIES.--The department may
20 assess an administrative penalty not to exceed five thousand
21 dollars (\$5,000) for each violation of the Plant Protection Act
22 or rules promulgated in accordance with that act and may
23 suspend, revoke or refuse to renew a license. Penalties shall
24 be assessed as provided in Section 76-1-6 NMSA 1978."

25 SECTION 21. Section 76-9-1 NMSA 1978 (being Laws 1975,
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1 Chapter 122, Section 1) is amended to read:

2 "76-9-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article 9
3 NMSA 1978 may be cited as the "Bee Act"."

4 SECTION 22. Section 76-9-2 NMSA 1978 (being Laws 1975,
5 Chapter 122, Section 2) is amended to read:

6 "76-9-2. DEFINITIONS.--As used in the Bee Act:

7 A. "abandoned colony" means a colony that is
8 abandoned or neglected by a beekeeper according to criteria
9 adopted by the board;

10 B. "apiary" means a location where one or more
11 colonies or nuclei of bees are managed by a beekeeper;

12 C. "bee" means all ~~[races of the honeybee, Apis~~
13 ~~mellifera L., and other species of the genus Apis that are~~
14 ~~capable of being managed for the production of honey, wax or~~
15 ~~pollen or that are capable of being managed to pollinate~~
16 plants] species of the superfamily Apoidea that are managed for
17 beneficial purposes, including pollination services or
18 production of wax and honey;

19 D. "beekeeper" means a person who owns, leases or
20 manages bees;

21 E. "board" means the board of regents of New Mexico
22 state university;

23 F. "colony" means ~~[a family unit of bees composed~~
24 ~~of a queen and workers]~~ a collection of bees attending to one
25 nest or an assemblage of nests containing bees at any stage of

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1 development;

2 ~~[G. "commercial apiary" means a location where a~~
3 ~~beekeeper is required to maintain the minimum number of~~
4 ~~colonies designated by the board;~~

5 ~~H.]~~ G. "contagious disease" means ~~[any]~~ a disease,
6 parasite, insect or mite or anything adversely affecting adult
7 bees or their brood that may be spread from one bee to another
8 bee or from one colony to another colony;

9 ~~[F.]~~ H. "department" means the New Mexico
10 department of agriculture;

11 ~~[J.]~~ I. "equipment" means ~~[equipment]~~ tools used in
12 managing bees, including ~~[but not limited to]~~ brood chambers,
13 surplus honey chambers, bottom boards, tops, frames, drawn
14 comb, queen excluders and feeders;

15 ~~[K.]~~ J. "hive" means a container made or prepared
16 that is used as a home by a colony of bees; and

17 ~~[L.]~~ K. "inspector" means a qualified person
18 designated by the department to enforce the provisions of the
19 Bee Act and ~~[regulations adopted by the board]~~ rules
20 promulgated in accordance with that act."

21 SECTION 23. Section 76-9-3 NMSA 1978 (being Laws 1975,
22 Chapter 122, Section 3) is amended to read:

23 "76-9-3. POWERS AND DUTIES OF BOARD AND DEPARTMENT.--

24 A. The board shall adopt ~~[regulations]~~ rules
25 necessary for the administration and enforcement of the Bee Act
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1 and through the department shall administer and enforce the Bee
2 Act and ~~[regulations]~~ rules adopted by the board.

3 B. The department has full power to deal with ~~[any]~~
4 contagious ~~[disease]~~ diseases of bees ~~[which]~~ that in the
5 opinion of the department may be prevented, controlled or
6 eradicated and shall perform such acts as ~~[in the judgment of~~
7 ~~the department, may be]~~ necessary to control, eradicate or
8 prevent the introduction, spread or dissemination of contagious
9 diseases of bees, including prescriptive treatments,
10 quarantines and colony destruction.

11 C. The department has the authority to prohibit
12 ~~[the shipment or bringing into the state]~~ colonies or equipment
13 capable of transmitting contagious disease from being shipped
14 or brought into New Mexico from any state, territory or foreign
15 country.

16 D. The department shall provide services to
17 beekeepers that include phytosanitary export and import
18 inspections and document issuance."

19 SECTION 24. Section 76-9-5 NMSA 1978 (being Laws 1975,
20 Chapter 122, Section 5) is amended to read:

21 "76-9-5. INSPECTION--ACCESS--INTERFERENCE.--~~[A. The~~
22 ~~department shall notify each beekeeper prior to the initial~~
23 ~~annual inspection of his apiary and, if requested by the~~
24 ~~beekeeper, an inspector shall make the apiary inspection in the~~
25 ~~presence of the beekeeper or his representative and at a time~~

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1 ~~that conforms to the efficient management of bees]~~ The
2 department may inspect any colony or hive that the department
3 suspects might be or is infected or infested with a contagious
4 disease that may pose a health risk to other colonies.

5 Subsequent inspections may be made by an inspector, as needed,
6 to locate and control contagious disease and ~~[regulate the~~
7 ~~location of any apiary. The inspector shall have access to all~~
8 ~~apiaries. Any]~~ verify compliance with department-issued
9 restrictions directed toward the prevention, mitigation or
10 eradication of contagious diseases. Inspectors shall have
11 access to all colonies and hives and shall consider
12 environmental factors and their impact on colony health prior
13 to an inspection. A person who ~~[shall hinder, resist or~~
14 ~~impede]~~ in any way hinders, resists or impedes an inspector in
15 the discharge of ~~[his]~~ the inspector's duties ~~[shall be]~~ is in
16 violation of the Bee Act.

17 ~~[B. In order to permit the inspector to readily~~
18 ~~examine a colony for contagious disease, beekeepers shall~~
19 ~~manage bees only in those types of hives approved by the~~
20 ~~board.]"~~

21 SECTION 25. Section 76-9-7 NMSA 1978 (being Laws 1975,
22 Chapter 122, Section 7) is amended to read:

23 "76-9-7. DISEASED COLONIES.--If an inspector finds a
24 colony infected or infested with a contagious disease ~~[in a~~
25 ~~colony, he]~~ verified by a department-approved laboratory and in

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1 the opinion of the director, the contagious disease poses a
2 health risk to other colonies, the department shall direct the
3 beekeeper to destroy the diseased colony and infected or
4 infested equipment or to treat the colony [~~according to a~~
5 ~~schedule approved by the department; providing the inspector~~
6 ~~shall, upon request by the beekeeper, obtain a sample of brood~~
7 ~~that is representative of the apiary as determined by the~~
8 ~~inspector for submission to an approved state or federal~~
9 ~~laboratory for verification of the disease] and equipment to
10 eradicate the contagious disease. All [~~diseased~~] colonies that
11 are treated by a beekeeper shall be reinspected [~~by an~~
12 ~~inspector~~] within the period designated by the [~~board. The~~
13 ~~board may require the beekeeper to pay an amount set by the~~
14 ~~board not to exceed fifty dollars (\$50.00) for each inspection,~~
15 ~~excluding the initial annual inspection, required to certify~~
16 ~~that the colonies are apparently free of contagious disease]~~
17 department. Colonies that do not respond to treatment within a
18 period specified by the [~~board following the initial~~
19 ~~inspection]~~ department shall be destroyed by the beekeeper or
20 [~~an inspector~~] the department at the expense of the beekeeper
21 and in a manner approved by the department, and the
22 contaminated equipment shall be disinfected or burned by the
23 beekeeper or [~~an inspector~~] the department."~~

24 SECTION 26. A new section of the Bee Act, Section
25 76-9-7.1 NMSA 1978, is enacted to read:

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1 "76-9-7.1. [NEW MATERIAL] HIVE OWNERSHIP
2 IDENTIFICATION--ABANDONMENT.--To aid the department and
3 landowners in contacting owners of hives, each apiary located
4 on property not owned by a beekeeper shall have posted on it
5 the beekeeper's contact information, including name, phone
6 number and other information required by rule. Contact
7 information shall be posted in a manner that is visible to the
8 landowner and inspector. The department shall consider hives
9 located in an apiary not in compliance with this section to be
10 abandoned only after the department attempts to identify
11 ownership of the hives as provided by rule."

12 SECTION 27. Section 76-9-8 NMSA 1978 (being Laws 1975,
13 Chapter 122, Section 8) is amended to read:

14 "76-9-8. ABANDONED [~~COLONIES~~] HIVES.--Abandoned
15 [~~colonies~~] hives infected or infested with contagious disease
16 and contaminated equipment shall be destroyed under the
17 supervision of the [~~inspector~~] department when the [~~colony~~]
18 hive is found to be infected or infested with a contagious
19 disease. Abandoned hives with live colonies or abandoned
20 equipment that is apparently free of contagious disease may be
21 sold in a manner designated by the [~~board~~] department or
22 destroyed as specified by the [~~board~~] department."

23 SECTION 28. Section 76-9-11 NMSA 1978 (being Laws 1975,
24 Chapter 122, Section 11) is amended to read:

25 "76-9-11. IMPORTATION OF BEES.--

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1 A. No ~~[colonies]~~ bees or used bee-related equipment
2 shall be moved into ~~[the state]~~ New Mexico unless accompanied
3 by a certificate of inspection signed by an authorized apiary
4 inspector of the state from which the bees and used bee-related
5 equipment originated. The certificate of inspection shall
6 state that the ~~[colonies]~~ bees and used bee-related equipment
7 are apparently free of contagious disease and shall meet other
8 requirements as designated by the board. The person in ~~[this~~
9 ~~state]~~ New Mexico receiving ~~[colonies]~~ bees or used bee-related
10 equipment shall ~~[file with the department a statement of the~~
11 ~~proposed location in the state where the colonies will be~~
12 ~~managed and a notice that the bees have arrived. The statement~~
13 ~~and notice shall be filed by the beekeeper in accordance with~~
14 ~~the regulations of the board. The department shall, as soon as~~
15 ~~practicable after arrival, inspect the colonies for contagious~~
16 ~~disease. The beekeeper shall pay the actual cost of the~~
17 ~~initial inspection and all subsequent inspections required~~
18 ~~because of the presence of any contagious disease.~~

19 B. ~~This section shall not apply to the movement~~
20 ~~into the state of packaged bees or queen bees if moved into the~~
21 ~~state in mailing cages free of honey]~~ maintain a copy of the
22 certificate of inspection for a minimum of three years. The
23 beekeeper shall make the certificate of inspection available
24 for review at the request of the department. The department
25 may determine that a subsequent inspection is warranted.

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1 ~~[G.]~~ B. In order to prevent the dissemination of
2 ~~[any]~~ bees that would adversely affect ~~[the beekeeping~~
3 ~~industry]~~ other bees in ~~[the state]~~ New Mexico, the department
4 may prohibit their entrance into the state and may seize, stop
5 movement, destroy or otherwise dispose of the bees as the
6 department deems appropriate."

7 **SECTION 29.** Section 76-9-12 NMSA 1978 (being Laws 1975,
8 Chapter 122, Section 12) is amended to read:

9 "76-9-12. FEES--DISPOSITION OF FUNDS.--Fees for
10 inspections, travel and document services shall be established
11 by the board as provided in Section 76-1-2 NMSA 1978. All
12 money collected ~~[under the provisions of]~~ pursuant to the Bee
13 Act shall be expended only to administer and enforce the Bee
14 Act."

15 **SECTION 30.** Section 76-9-13 NMSA 1978 (being Laws 1975,
16 Chapter 122, Section 13) is amended to read:

17 "76-9-13. PENALTIES [BOND].--
18 ~~[A. Any person who violates any provision of the~~
19 ~~Bee Act or any regulation adopted by the board pursuant~~
20 ~~thereto is guilty of a misdemeanor. Each day a person remains~~
21 ~~in violation shall constitute a separate offense.~~

22 ~~B. The department shall not be required to give~~
23 ~~bond or security in any legal proceeding brought under the Bee~~
24 ~~Act which the department may institute or defend in any court~~
25 ~~of the state.]~~ A person who violates a provision of the Bee Act

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1 or a rule promulgated by the board in accordance with that act
2 may be assessed an administrative penalty not to exceed five
3 thousand dollars (\$5,000) for each violation as provided in
4 Section 76-1-6 NMSA 1978."

5 SECTION 31. Section 76-11-3 NMSA 1978 (being Laws 1963,
6 Chapter 184, Section 3, as amended) is amended to read:

7 "76-11-3. DEFINITIONS.--As used in the New Mexico
8 Fertilizer Act:

9 A. "board" means the board of regents of New Mexico
10 state university;

11 B. "department" means the New Mexico department of
12 agriculture;

13 C. "fertilizer" means ~~[any]~~ a substance that
14 contains one or more recognized plant nutrients and that is
15 used for its plant nutrient content and is designed for use or
16 claimed to have value in promoting plant growth, except
17 unmanipulated animal and vegetable manures, marl limes,
18 limestone, wood ashes, gypsum and other products exempt by rule
19 of the board;

20 D. "fertilizer material" means a fertilizer that
21 either:

22 (1) contains important quantities of no more
23 than one of the primary plant nutrients: nitrogen (N),
24 phosphate (P₂O₅) and potash (K₂O);

25 (2) has eighty-five percent of its plant

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1 nutrient content present in the form of a single chemical
2 compound; or

3 (3) is derived from a plant or animal residue
4 or byproduct or a natural material deposit that has been
5 processed in such a way that its content of plant nutrients has
6 not been materially changed except by purification and
7 concentration;

8 E. "specialty fertilizer" means a fertilizer
9 distributed primarily for nonfarm use such as home gardens,
10 lawns, shrubbery, flowers, golf courses, municipal parks,
11 cemeteries, greenhouses and nurseries and may include
12 fertilizers used for research or experimental purposes;

13 F. "bulk fertilizers" means fertilizers distributed
14 in a nonpackaged form;

15 G. "brand" means a term, design or trademark under
16 which one or more fertilizers [~~or soil conditioners~~] are
17 distributed in New Mexico;

18 H. "guaranteed analysis" means the minimum
19 percentage of plant nutrients claimed in the order and form as
20 prescribed by the board;

21 I. "grade" means the percentages of total nitrogen,
22 available phosphorus or phosphate and soluble potassium or
23 soluble potash stated in whole numbers in the same terms, order
24 and percentages as in the guaranteed analysis; provided,
25 however, that fertilizer materials, bone meal, manures and

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1 similar raw materials may be guaranteed in fractional units;

2 J. "official sample" means [~~any~~] a sample of
3 fertilizer [~~or soil conditioner~~] taken by the department unless
4 designated otherwise;

5 K. "ton" means a net weight of two thousand pounds
6 avoirdupois;

7 L. "percent" or "percentage" means the percentage
8 by weight;

9 [~~M. "person" includes individual, partnership,
10 association, firm and corporation;~~

11 ~~N.]~~ M. "distributor" means a person that imports,
12 consigns, manufactures, produces, compounds, mixes or blends
13 fertilizer [~~or soil conditioner~~] or that offers for sale,
14 sells, barter or otherwise supplies fertilizer [~~or soil
15 conditioner~~] in the state;

16 [~~O.]~~ N. "registrant" means the person that
17 registers a fertilizer [~~or soil conditioner~~] under the
18 provisions of the New Mexico Fertilizer Act;

19 [~~P.]~~ O. "label" means the display of all written,
20 printed or graphic matter upon the immediate container or
21 statement accompanying a fertilizer [~~or soil conditioner~~];

22 [~~Q.]~~ P. "labeling" means all written, printed or
23 graphic matter [~~upon~~] on or accompanying a fertilizer; [~~or soil
24 conditioner~~];

25 ~~R. "soil conditioner" means a substance or mixture~~

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1 ~~of substances intended for sale, offered for sale or sold for~~
2 ~~manurial, soil enriching or soil corrective purposes or~~
3 ~~intended to be used for promoting or stimulating the growth of~~
4 ~~plants, increasing the productivity of plants, improving the~~
5 ~~quality of crops or producing a chemical or physical change in~~
6 ~~the soil, except fertilizer as defined in this section,~~
7 ~~unmanipulated animal and vegetable manures and other products~~
8 ~~exempted by rules of the board;~~

9 ~~S.]~~ Q. "blender" means a person or system engaged
10 in the business of blending fertilizer, including both mobile
11 and fixed equipment used in blending;

12 ~~[F.]~~ R. "blending" means the physical mixing or
13 combining of fertilizer materials and filler materials as
14 provided in Paragraphs (1) through (3) of this subsection,
15 including mixing through the simultaneous or sequential
16 application of any of the combinations provided in this
17 subsection, to produce a uniform mixture:

18 (1) one or more fertilizer materials and one
19 or more filler materials;

20 (2) two or more fertilizer materials; or

21 (3) two or more fertilizer materials and
22 filler materials;

23 ~~[U.]~~ S. "custom blend" means a fertilizer blended
24 according to specifications provided to a blender in a soil
25 test nutrient recommendation or to meet the specific consumer's

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1 request prior to blending;

2 [V-] T. "deficiency" means the amount of nutrient
3 found by analysis to be less than the guaranteed amount, which
4 may result from a lack of nutrient ingredients or from lack of
5 uniformity;

6 [W-] U. "investigational allowance" means an
7 allowance for variations inherent in the taking, preparation
8 and analysis of an official sample of fertilizer; ~~and~~

9 ~~X-] V.~~ V. "primary nutrient" means total nitrogen,
10 available phosphate and soluble potash; and

11 W. "derivation" means the source from which the
12 guaranteed nutrients are derived."

13 SECTION 32. Section 76-11-4 NMSA 1978 (being Laws 1963,
14 Chapter 184, Section 4, as amended) is amended to read:

15 "76-11-4. REGISTRATION.--

16 A. Each brand and grade of fertilizer and each
17 [~~soil conditioner~~] product shall be registered before being
18 distributed in the state. The application for registration
19 shall be submitted to the department on a form furnished by the
20 department and shall be accompanied by a label or other printed
21 matter describing the fertilizer and a fee [~~of five dollars~~
22 ~~(\$5.00)] not to exceed twenty dollars (\$20.00) per brand or
23 grade [~~except that those brands or grades sold in packages of~~
24 ~~five pounds or less shall be registered at a fee of fifteen~~
25 ~~dollars (\$15.00) each~~]. Upon approval by the department, a~~

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1 copy of the registration shall be furnished to the applicant.
2 All registrations expire on December 31 of each year.

3 B. A distributor shall not be required to register
4 a brand of fertilizer [~~or soil conditioner~~] that is already
5 registered under the New Mexico Fertilizer Act by another
6 person.

7 C. A distributor shall not be required to register
8 a fertilizer formulated according to specifications that are
9 furnished by a consumer prior to mixing but shall be required
10 to label the fertilizer as provided in Subsection C of Section
11 76-11-5 NMSA 1978."

12 SECTION 33. Section 76-11-5 NMSA 1978 (being Laws 1963,
13 Chapter 184, Section 5, as amended) is amended to read:

14 "76-11-5. LABELING.--

15 A. A fertilizer distributed in this state in
16 containers shall have placed on or affixed to the container a
17 label setting forth in clearly legible and conspicuous form the
18 following information:

19 (1) the net weight or other measure prescribed
20 as satisfactory to the board;

21 (2) brand and grade;

22 (3) guaranteed analysis;

23 (4) name and address of the registrant; [~~and~~]

24 (5) directions for use for fertilizer

25 distributed to a consumer; and

.229578.4SA

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1 (6) a derivation statement, which shall not
2 include brand names, trademarks and trade names in the
3 statement.

4 B. If a fertilizer is distributed in bulk, a
5 written or printed statement of the information required by
6 Subsection A of this section shall accompany delivery and be
7 supplied to the purchaser at time of delivery.

8 C. A fertilizer formulated according to
9 specifications that are furnished by a consumer prior to mixing
10 shall be labeled to show the net weight, guaranteed analysis
11 and the name and address of the distributor.

12 ~~[D. Each brand of soil conditioner distributed in~~
13 ~~the state shall be accompanied by a legible label bearing the~~
14 ~~following information:~~

15 ~~(1) net weight or other measure prescribed as~~
16 ~~satisfactory by the board;~~

17 ~~(2) the brand name under which the soil~~
18 ~~conditioner is distributed;~~

19 ~~(3) an accurate statement of composition and~~
20 ~~purpose; and;~~

21 ~~(4) the name and address of the registrant.]"~~

22 SECTION 34. Section 76-11-6 NMSA 1978 (being Laws 1963,
23 Chapter 184, Section 6, as amended) is amended to read:

24 "76-11-6. INSPECTION FEES.--

25 A. There shall be paid to the department for all

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1 fertilizer [~~and soil conditioner~~] distributed in the state an
2 inspection fee set by the board at a rate not to exceed
3 [~~thirty-five cents (\$.35)~~] fifty cents (\$.50) a ton with a
4 minimum inspection fee of five dollars (\$5.00) per quarterly
5 reporting period; provided that sales to manufacturers or
6 exchanges between them are exempted. Fees so collected shall
7 be used for the payment of the costs of inspection, sampling
8 and analysis and other expenses necessary for the
9 administration of the New Mexico Fertilizer Act.

10 B. On individual packages of fertilizer [~~or soil~~
11 ~~conditioner~~] containing five pounds or less, there shall be
12 paid [~~in lieu of the annual registration fee of five dollars~~
13 ~~(\$5.00) per brand and grade of fertilizer and each soil~~
14 ~~conditioner product and the required inspection fee an annual~~
15 ~~registration fee and inspection fee of fifteen dollars~~
16 ~~(\$15.00). Where~~] an annual inspection fee not to exceed fifty
17 dollars (\$50.00). If a person sells fertilizer [~~or soil~~
18 ~~conditioner~~] in packages of five pounds or less and in packages
19 over five pounds, the annual registration and inspection fee
20 [~~of fifteen dollars (\$15.00)~~] applies only to that portion sold
21 in packages of five pounds or less [~~and that portion sold in~~
22 ~~packages over five pounds is subject to the inspection fee~~].

23 C. A person who distributes a fertilizer [~~or soil~~
24 ~~conditioner~~] in the state shall file with the department on
25 forms furnished by the department a quarterly statement for the

.229578.4SA

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1 periods ending March 31, June 30, September 30 and December 31
2 setting forth the number of net tons of each fertilizer [~~or~~
3 ~~soil conditioner~~] distributed in the state during the quarter.
4 The report is due on or before the last day of the month
5 following the close of each quarter. The inspection fee shall
6 be paid at the time of filing of the statement. If the tonnage
7 report is not filed and the payment of inspection fee is not
8 made within thirty days after the end of the quarter, a
9 collection fee amounting to ten percent, but not less than ten
10 dollars (\$10.00), of the amount shall be assessed against the
11 registrant, and the amount of fees due constitutes a debt and
12 becomes the basis of a judgment against the registrant.

13 D. When more than one person is involved in the
14 distribution of fertilizer [~~or soil conditioner~~], the first
15 person who has the fertilizer [~~or soil conditioner~~] registered
16 and who distributes to a nonregistrant dealer or consumer is
17 responsible for reporting the tonnage and paying the inspection
18 fee unless the report and payment have been previously made by
19 a prior distributor."

20 SECTION 35. Section 76-11-7 NMSA 1978 (being Laws 1963,
21 Chapter 184, Section 7, as amended) is amended to read:

22 "76-11-7. INSPECTION--SAMPLING--ANALYSIS.--

23 A. The department shall sample, inspect, make
24 analyses of and test fertilizers [~~and soil conditioners~~]
25 distributed within the state at a time and place and to the

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1 extent necessary to determine whether the fertilizer [~~or soil~~
2 ~~conditioner~~] is in compliance with the New Mexico Fertilizer
3 Act. The department may enter upon public or private premises
4 or carriers during the regular business hours in order to have
5 access to the fertilizer [~~or soil conditioners~~] and may examine
6 records relating to the distribution of fertilizer [~~and soil~~
7 ~~conditioners~~] subject to the provisions of [~~the New Mexico~~
8 ~~Fertilizer~~] that act and [~~the~~] rules adopted [~~pursuant to~~] in
9 accordance with that act.

10 B. The methods of analysis and sampling shall be
11 those adopted by the department from sources such as the
12 association of official agricultural chemists. In cases not
13 covered by such methods, or in cases where methods in which
14 improved applicability has been demonstrated are available, the
15 department may adopt such appropriate methods from other
16 sources.

17 C. The department, in determining for
18 administrative purposes whether a fertilizer is deficient in
19 plant food, shall be guided solely by the official sample, as
20 defined by Section 76-11-3 NMSA 1978, obtained and analyzed as
21 provided for in Subsection B of this section.

22 D. Upon request, the department shall furnish to
23 the registrant a portion of any sample found subject to penalty
24 or other legal action. Official samples establishing a penalty
25 for nutrient deficiency shall be retained for a minimum of

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1 ninety days from issuance of a deficiency report."

2 SECTION 36. Section 76-11-10 NMSA 1978 (being Laws 1975,
3 Chapter 181, Section 10, as amended) is amended to read:

4 "76-11-10. MISBRANDING.--A person shall not distribute
5 misbranded fertilizer [~~or soil conditioner~~]. A fertilizer [~~or~~
6 ~~soil conditioner~~] is misbranded if:

7 A. its labeling is false or misleading in any
8 particular;

9 B. it is distributed under the name of another
10 fertilizer [~~or soil conditioner~~] product;

11 C. it is not labeled as required in Section
12 76-11-5 NMSA 1978 and in accordance with rules [~~prescribed~~
13 ~~under~~] promulgated in accordance with the New Mexico Fertilizer
14 Act; or

15 D. it purports to be or is represented as a
16 fertilizer [~~or soil conditioner~~] or is represented as
17 containing a plant nutrient, fertilizer [~~or soil conditioner~~]
18 unless such plant nutrient, fertilizer [~~or soil conditioner~~]
19 conforms to the definition of identity, if any, prescribed by
20 rule of the board; in adopting such rules, the board shall give
21 due regard to commonly accepted definitions and official
22 fertilizer terms such as those issued by the association of
23 American plant food control officials."

24 SECTION 37. Section 76-11-11 NMSA 1978 (being Laws 1963,
25 Chapter 184, Section 11, as amended) is amended to read:

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1 "76-11-11. TONNAGE REPORTS.--The person transacting,
2 distributing or selling fertilizer [~~or soil conditioner~~] to a
3 nonregistrant shall mail the department a report showing the
4 county of the consignee, the amounts in tons of each grade of
5 fertilizer and each [~~soil conditioner~~] product and the form in
6 which the fertilizer [~~or soil conditioner~~] was distributed such
7 as bags, liquid, bulk or other forms. This information shall
8 be reported by one of the following methods:

9 A. submitting a quarterly summary report [~~approved~~
10 ~~by the department~~] on forms furnished by the department for the
11 periods ending March 31, June 30, September 30 and December 31,
12 on or before the [~~fifteenth day of each month covering~~
13 ~~shipments made during the preceding month~~] last day of the
14 month following the close of each quarter; or

15 B. submitting a copy of the invoice within five
16 business days after shipment. Information furnished to the
17 department [~~under~~] pursuant to this section shall not be
18 disclosed in such a way as to divulge the operation of any
19 person."

20 SECTION 38. Section 76-11-12 NMSA 1978 (being Laws 1963,
21 Chapter 184, Section 12, as amended) is amended to read:

22 "76-11-12. PUBLICATIONS.--The board shall publish at
23 least annually and in a form it deems proper:

24 A. information concerning the distribution of
25 fertilizers [~~and soil conditioners~~]; and

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1 B. results of analysis based on official samples of
2 fertilizers [~~and soil conditioners~~] distributed within the
3 state as compared with the analysis guaranteed in the
4 registration and the label."

5 SECTION 39. Section 76-11-13 NMSA 1978 (being Laws 1963,
6 Chapter 184, Section 13, as amended) is amended to read:

7 "76-11-13. RULES.--For the enforcement of the New Mexico
8 Fertilizer Act, the board may prescribe and, after public
9 hearing following due public notice, [~~adopt~~] promulgate the
10 rules relating to the distribution of fertilizers [~~and soil~~
11 ~~conditioners that it may find~~] necessary to carry into effect
12 the full intent and meaning of the New Mexico Fertilizer Act.
13 [~~Under this section~~] The board may promulgate rules for the
14 storing, hauling and handling of anhydrous ammonia and other
15 gaseous or liquid fertilizers [~~and they shall have the same~~
16 ~~effect as law~~]."

17 SECTION 40. Section 76-11-14 NMSA 1978 (being Laws 1963,
18 Chapter 184, Section 14, as amended) is amended to read:

19 "76-11-14. SHORT WEIGHT.--If a fertilizer [~~or soil~~
20 ~~conditioner~~] in the possession of [~~the~~] a consumer is found by
21 the department to be short in weight or other measure
22 prescribed by the board, the registrant of the fertilizer [~~or~~
23 ~~soil conditioner~~] shall, within thirty days after official
24 notice from the department, pay to the consumer a penalty equal
25 to four times the value of the actual shortage."

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1 SECTION 41. Section 76-11-15 NMSA 1978 (being Laws 1963,
2 Chapter 184, Section 15, as amended) is amended to read:

3 "76-11-15. CANCELLATION OF REGISTRATIONS.--The
4 department may cancel the registration of any brand of
5 fertilizer [~~or soil conditioner~~] or refuse to register any
6 brand of fertilizer [~~or soil conditioner~~] upon satisfactory
7 evidence that the registrant has used fraudulent or deceptive
8 practices in the evasions or attempted evasions of the
9 provisions of the New Mexico Fertilizer Act or any rules
10 promulgated [~~under~~] in accordance with that act; provided that
11 no registration shall be revoked or refused until the
12 registrant is given an opportunity to appear for a hearing by
13 the department."

14 SECTION 42. Section 76-11-16 NMSA 1978 (being Laws 1963,
15 Chapter 184, Section 16, as amended) is amended to read:

16 "76-11-16. STOP SALE ORDERS.--The department may issue
17 and enforce a written or printed "stop sale, use or removal"
18 order to the owner or custodian of any lot of fertilizer [~~or~~
19 ~~soil conditioner~~] and to be held at a designated place when the
20 department finds the fertilizer [~~or soil conditioner~~] is being
21 offered or exposed for sale in violation of any of the
22 provisions of the New Mexico Fertilizer Act until the law has
23 been complied with and the fertilizer [~~or soil conditioner~~] is
24 released in writing by the department or the violation has been
25 otherwise legally disposed of by written authority. The

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1 department shall release the fertilizer [~~or soil conditioner~~]
2 so withdrawn when the requirements of the provisions of [~~the~~
3 ~~New Mexico Fertilizer~~] that act have been complied with and all
4 costs and expenses incurred in connection with the withdrawal
5 have been paid."

6 SECTION 43. Section 76-11-17 NMSA 1978 (being Laws 1963,
7 Chapter 184, Section 17, as amended) is amended to read:

8 "76-11-17. SEIZURE--CONDEMNATION--SALE.--

9 A. Any lot of fertilizer [~~or soil conditioner~~] not
10 in compliance with the provisions of the New Mexico Fertilizer
11 Act is subject to seizure on complaint of the department to a
12 court of competent jurisdiction in the area in which the
13 fertilizer [~~or soil conditioner~~] is located.

14 B. In the event the court finds the fertilizer [~~or~~
15 ~~soil conditioner~~] to be in violation of the New Mexico
16 Fertilizer Act and orders the condemnation of the fertilizer
17 [~~or soil conditioner~~], it shall be disposed of in any manner
18 consistent with the quality of the fertilizer [~~or soil~~
19 ~~conditioner~~] and the laws of the state.

20 C. In no instance shall the disposition of the
21 fertilizer [~~or soil conditioner~~] be ordered by the court
22 without first giving the claimant an opportunity to apply to
23 the court for release of the fertilizer [~~or soil conditioner~~]
24 or for permission to process or relabel the fertilizer [~~or soil~~
25 ~~conditioner~~] to bring it into compliance with the New Mexico

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1 Fertilizer Act."

2 SECTION 44. Section 76-11-18 NMSA 1978 (being Laws 1963,
3 Chapter 184, Section 18, as amended) is amended to read:

4 "76-11-18. VIOLATIONS.--~~[A.]~~ If it appears from the
5 examination of a fertilizer ~~[or soil conditioner]~~ that any of
6 the provisions of the New Mexico Fertilizer Act or the rules
7 ~~[issued pursuant to]~~ promulgated in accordance with that act
8 have been violated, the department ~~[shall cause notice of the~~
9 ~~violations to be given to the registrant, distributor or~~
10 ~~possessor from whom the sample was taken; a person notified~~
11 ~~shall be given opportunity to be heard under the rules~~
12 ~~prescribed by the board. If it appears after the hearing,~~
13 ~~either in the presence or the absence of the person notified,~~
14 ~~that any of the provisions of the New Mexico Fertilizer Act or~~
15 ~~rules issued pursuant to that act have been violated, the~~
16 ~~department may certify the facts to the proper district~~
17 ~~attorney.~~

18 B. ~~A person convicted of violating any provision of~~
19 ~~the New Mexico Fertilizer Act or the rules issued pursuant to~~
20 ~~that act is guilty of a misdemeanor.~~

21 C. ~~Nothing in the New Mexico Fertilizer Act shall~~
22 ~~require the department or its representative to report for~~
23 ~~prosecution or for the institution of seizure proceedings as a~~
24 ~~result of minor violations of the New Mexico Fertilizer Act~~
25 ~~when it believes that the public interests will be best served~~

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1 ~~by a suitable notice of warning in writing.~~

2 ~~D. The department may apply for and the court may~~
3 ~~grant a temporary or permanent injunction restraining a person~~
4 ~~from violating or continuing to violate any of the provisions~~
5 ~~of the New Mexico Fertilizer Act or any rule promulgated~~
6 ~~pursuant to that act, notwithstanding the existence of other~~
7 ~~remedies at law. The injunction shall be issued without bond]~~
8 may assess an administrative penalty not to exceed five
9 thousand dollars (\$5,000) for each violation and the department
10 may suspend, revoke or refuse to renew the person's
11 registration as provided in Section 76-1-6 NMSA 1978."

12 SECTION 45. Section 76-11-19 NMSA 1978 (being Laws 1963,
13 Chapter 184, Section 19, as amended) is amended to read:

14 "76-11-19. EXCHANGES BETWEEN MANUFACTURERS.--Nothing in
15 the New Mexico Fertilizer Act shall be construed to restrict or
16 avoid sales or exchanges of fertilizers [~~or soil conditioners~~]
17 to each other by importers, manufacturers or manipulators that
18 mix those materials for sale or as preventing the free and
19 unrestricted shipments of fertilizer [~~or soil conditioners~~] to
20 manufacturers or manipulators that have registered their brands
21 as required by the provisions of the New Mexico Fertilizer
22 Act."

23 SECTION 46. Section 60-16-1 NMSA 1978 (being Laws 2018,
24 Chapter 47, Section 1) is recompiled as Section 76-16A-1 NMSA
25 1978 and is amended to read:

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1 "76-16A-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article
2 16A NMSA 1978 may be cited as the "Pecan Buyers Licensure
3 Act"."

4 SECTION 47. Section 60-16-2 NMSA 1978 (being Laws 2018,
5 Chapter 47, Section 2) is recompiled as Section 76-16A-2 NMSA
6 1978 and is amended to read:

7 "76-16A-2. DEFINITIONS.--As used in the Pecan Buyers
8 Licensure Act:

9 A. "accumulator" means a person engaged in the
10 purchasing and possessing of in-shell pecans with the intent of
11 selling them to another buyer;

12 B. "broker" means a person who buys in-shell pecans
13 on behalf of others;

14 ~~[A.]~~ C. "buyer" means a person engaged in the
15 business of purchasing in-shell pecans ~~[from a pecan producer]~~
16 and includes an accumulator, ~~[buying station, cleaning plant]~~
17 sheller, dealer, ~~[or]~~ broker, cooperative or other person
18 defined by rule that purchases or acquires in-shell pecans on
19 behalf of themselves or others;

20 ~~[B.]~~ D. "buying location" means a physical location
21 where a buyer ~~[accepts]~~ receives in-shell pecans or a physical
22 location where records relating to the purchase or acquisition
23 of in-shell pecans are maintained ~~[in the event the purchase of~~
24 ~~in-shell pecans is brokered];~~

25 E. "cooperative" means a membership organization

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1 engaged in buying, accumulating or shelling in-shell pecans for
2 the benefit of its members;

3 F. "dealer" means a person engaged in the business
4 of buying in-shell pecans and selling them directly to the
5 consumer;

6 [~~G.~~] G. "department" means the New Mexico
7 department of agriculture, its staff or authorized agents;

8 [~~D.~~] H. "director" means the director of the [~~New~~
9 ~~Mexico~~] department [~~of agriculture~~];

10 [~~E.~~] I. "in-shell pecan" means a pecan nut with its
11 shell attached;

12 [~~F.~~] J. "license" means an in-shell pecan buyer's
13 license issued by the department [~~pursuant to the Pecan Buyers~~
14 ~~Licensure Act~~];

15 [~~G.~~] K. "peace officer" means a full-time salaried,
16 [~~and~~] commissioned [~~or~~] and certified law enforcement officer
17 of a police or sheriff's department that is part of or
18 administered by the state or a political subdivision of the
19 state; and

20 [~~H.~~] "~~pecan producer~~" ~~means a person who grows~~
21 ~~pecans; and~~

22 [~~I.~~] L. "personal identification document" means:

- 23 (1) a driver's license;
24 (2) a military identification card; or
25 (3) a passport issued by the United States or

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1 by another country and recognized by the United States."

2 SECTION 48. Section 60-16-7 NMSA 1978 (being Laws 2018,
3 Chapter 47, Section 7) is recompiled as Section 76-16A-7 NMSA
4 1978 and is amended to read:

5 "76-16A-7. VIOLATIONS--REVOCATION OF LICENSE--PENALTY.--

6 A. The department may suspend or revoke a license
7 for violations of the Pecan Buyers Licensure Act or the rules
8 or orders promulgated pursuant to that act. The department may
9 deny a subsequent license to a person found to be in violation
10 of the Pecan Buyers Licensure Act.

11 ~~[B. A person who violates the provisions of the~~
12 ~~Pecan Buyers Licensure Act, or a rule or order promulgated~~
13 ~~under that act, after a notice to cease and desist, is guilty~~
14 ~~of a penalty assessment misdemeanor, and the penalty assessment~~
15 ~~is two hundred fifty dollars (\$250).]~~

16 B. The department may assess an administrative
17 penalty not to exceed five thousand dollars (\$5,000) for each
18 violation of the Pecan Buyers Licensure Act or rules
19 promulgated in accordance with that act.

20 C. Penalties shall be assessed as provided in
21 Section 76-1-6 NMSA 1978.

22 ~~[C.]~~ D. Each day a person remains in violation of
23 the Pecan Buyers Licensure Act constitutes a separate offense."

24 SECTION 49. Section 60-16-8 NMSA 1978 (being Laws 2018,
25 Chapter 47, Section 8) is recompiled as Section 76-16A-8 NMSA
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1 1978 and is amended to read:

2 "76-16A-8. DISPOSITION OF FEES.--All license fees
3 collected pursuant to the Pecan Buyers Licensure Act shall be
4 paid [~~into the treasury of~~] to New Mexico state university and
5 credited to the department for administration and enforcement
6 of the Pecan Buyers Licensure Act."

7 SECTION 50. Section 76-19A-12 NMSA 1978 (being Laws
8 2013, Chapter 23, Section 12) is amended to read:

9 "76-19A-12. INSPECTION FEES--REPORTS--CANCELLATION OF
10 REGISTRATIONS.--

11 A. [~~An inspection fee shall be paid to the board~~
12 ~~for all commercial feeds distributed in New Mexico. The fee~~
13 ~~shall not exceed fifteen cents (\$.15)] There shall be paid to
14 the department for all commercial feed distributed in New
15 Mexico an inspection fee set by the board at a rate not to
16 exceed fifty cents (\$.50) per ton, with a minimum inspection
17 fee of five dollars (\$5.00) per quarterly report period or, for
18 each brand of commercial feed distributed in individual
19 packages of ten pounds or less, a distributor shall pay an
20 annual inspection fee not to exceed [~~twenty-five dollars~~
21 ~~(\$25.00)] fifty dollars (\$50.00) and shall not pay the tonnage
22 fee on such packages of the brand so registered.~~~~

23 B. Fees collected shall not exceed the costs of
24 inspection, sampling and analysis and other expenses necessary
25 for the administration of the New Mexico Commercial Feed Act.

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1 Fees collected shall constitute a fund for the payment of the
2 costs of inspection, sampling and analysis and other expenses
3 necessary for the administration of that act.

4 C. Except as otherwise provided in this section, a
5 person who distributes commercial feed in New Mexico shall:

6 (1) file, not later than the last day of
7 January, April, July and October of each year, a quarterly
8 statement setting forth the number of net tons of commercial
9 feeds distributed in New Mexico during the preceding calendar
10 quarter and, upon filing the statement, shall pay the
11 inspection fee. When more than one person is involved in the
12 distribution of commercial feed, the person who distributes to
13 the consumer is responsible for reporting the tonnage and
14 paying the inspection fee unless the report and payment have
15 been made by a prior distributor of the feed; and

16 (2) keep such records as may be necessary or
17 required by the board to indicate accurately the tonnage of
18 commercial feeds distributed in New Mexico, and the board may
19 examine those records to verify statements of tonnage. If a
20 quarterly report is not filed or if the inspection fee is not
21 paid within the thirty-day period after the end of a quarter, a
22 penalty of twenty percent, or a sum of ten dollars (\$10.00),
23 whichever is greater, ~~[will]~~ shall be due in addition to the
24 inspection fees, and the inspection fees and the penalty shall
25 constitute a debt for which suit may be brought by the board.

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1 D. Failure to make an accurate statement of tonnage
2 or to pay the inspection fee or comply with the provisions of
3 the New Mexico Commercial Feed Act shall constitute sufficient
4 cause for the cancellation of all registrations on file for the
5 distributor."

6 SECTION 51. Section 76-19A-15 NMSA 1978 (being Laws
7 2013, Chapter 23, Section 15) is repealed and a new Section
8 76-19A-15 NMSA 1978 is enacted to read:

9 "76-19A-15. [NEW MATERIAL] PENALTIES.--The department
10 may assess an administrative penalty not to exceed five
11 thousand dollars (\$5,000) for each violation of the Commercial
12 Feed Act or rules promulgated in accordance with that act."

13 SECTION 52. Section 25-6-1 NMSA 1978 (being Laws 1963,
14 Chapter 138, Section 1) is amended to read:

15 "25-6-1. SHORT TITLE.--~~[This act]~~ Chapter 25, Article 6
16 NMSA 1978 may be cited as the "Egg Grading Act"."

17 SECTION 53. Section 25-6-9 NMSA 1978 (being Laws 1963,
18 Chapter 138, Section 9, as amended) is amended to read:

19 "25-6-9. EGG INSPECTION FEE.--The department's
20 administrative and enforcement duties pursuant to the Egg
21 Grading Act shall be financed in part by the collection of a
22 fee on all eggs sold to the retailer or consumer. The board
23 ~~[shall have authority to]~~ may establish the fee at ~~[their]~~ the
24 board's discretion, but in no case shall the fee exceed ~~[one-~~
25 ~~half-cent]~~ ten cents (\$.10) per dozen. The fee shall be paid

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1 by the egg dealer or producer who packages the eggs for sale to
2 the retailer or consumer. All money collected under the
3 provisions of the Egg Grading Act shall be deposited with ~~[the]~~
4 New Mexico state university ~~[for the purposes of administering]~~
5 to administer the provisions of that act and ~~[promoting]~~
6 promote the poultry industry and its products and shall be
7 expended upon the order of the board in the same manner as
8 other funds of ~~[the]~~ New Mexico state university."

9 SECTION 54. Section 25-6-12 NMSA 1978 (being Laws 1963,
10 Chapter 138, Section 12, as amended) is amended to read:

11 "25-6-12. CERTIFICATION OF DEALERS.--

12 A. A small dealer's license is required of any
13 person ~~[firm or corporation who]~~ that buys, sells or traffics
14 in more than five cases and less than two hundred cases of eggs
15 in any one week.

16 B. A ~~[medium-sized]~~ medium dealer's license is
17 required of any person ~~[firm or corporation who]~~ that buys,
18 sells or traffics in ~~[over]~~ more than two hundred cases and
19 less than four hundred cases of eggs in any one week.

20 C. A large dealer's license is required of any
21 person ~~[firm or corporation who]~~ that buys, sells or traffics
22 in ~~[over]~~ more than four hundred cases of eggs in any one week.

23 D. The annual fees for each type of dealer ~~[are]~~
24 shall not exceed:

25 (1) small dealer.....~~[\$10.00]~~ \$20.00;

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1 (2) medium dealer.....[~~\$25.00~~] \$50.00;

2 and

3 (3) large dealer.....[~~\$50.00~~] \$100.

4 E. For the purpose of this section, a "case" shall
5 consist of thirty dozen eggs.

6 F. All licenses shall be conspicuously posted in
7 the place of business to which they apply. The license is
8 subject to revocation by the inspectors for cause. [~~All~~
9 ~~licenses issued prior to the effective date of the Egg Grading~~
10 ~~Act shall expire when the act becomes effective and thereafter]~~
11 All licenses are renewable annually on July 1 [~~of each year~~]
12 and shall expire on June 30 of the succeeding year."

13 SECTION 55. Section 25-6-16 NMSA 1978 (being Laws 1963,
14 Chapter 138, Section 16) is repealed and a new Section 25-6-16
15 NMSA 1978 is enacted to read:

16 "25-6-16. [NEW MATERIAL] PENALTIES.--

17 A. The department may assess an administrative
18 penalty not to exceed five thousand dollars (\$5,000) for each
19 violation of the Egg Grading Act or rules promulgated in
20 accordance with that act and may suspend, revoke or refuse to
21 renew a license. Penalties shall be assessed as provided in
22 Section 76-1-6 NMSA 1978.

23 B. In addition to all other fees prescribed by the
24 Egg Grading Act, a penalty fee of ten percent shall be added
25 for delinquent filing of any report or the delinquent paying of

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1 any inspection fee, and, if the report and payment are not made
2 within ten days of notification of delinquency, the penalty
3 shall be twenty-five percent of the inspection fee. Persons
4 filing a false report shall be penalized fifty percent of the
5 amount due for inspection fees."

6 SECTION 56. Section 57-17-1 NMSA 1978 (being Laws 1959,
7 Chapter 202, Section 1, as amended) is amended to read:

8 "57-17-1. DEFINITIONS.--As used in ~~[this]~~ the Weights
9 and Measures Act:

10 ~~[A. "person" includes individuals, partnerships,~~
11 ~~corporations, companies, societies and associations;~~

12 ~~B. "weight(s)" and "measure(s)" include all~~
13 ~~instruments and devices used for weighing and measuring and~~
14 ~~their necessary and associated accessories and appliances;]~~

15 A. "apparatus" means a manual or mechanical unit,
16 method or device used to determine weight, measure or quantity;

17 B. "board" means the board of regents of New Mexico
18 state university;

19 C. "commercial weighing or measuring device" means
20 a device used or employed commercially to establish the
21 quantity, weight, count or size of products involving a
22 monetary transaction or in computing a basic change or payment
23 for services rendered on the basis of weight or measure;

24 D. "correct" means the condition of an apparatus
25 that by reason of its construction and adjustment will give

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1 accurate readings or indications of weight and quantity;

2 E. "department" means the New Mexico department of
3 agriculture;

4 F. "director" means the director of the department;

5 G. "incorrect" means the condition of an apparatus
6 or an apparatus's construction that precludes the apparatus
7 from being reasonably permanent in its adjustment or that does
8 not allow the apparatus to repeat its indications of weight or
9 quantity with accuracy;

10 H. "in package form" means a good or commodity
11 packaged or contained in advance of sale so as to constitute a
12 unit quantity of the good or commodity; provided that a good or
13 commodity not contained but upon which is marked a selling
14 price based upon weight or measure shall be construed to be in
15 packaged form; and provided further that "in package form" does
16 not include a shipping container containing goods or
17 commodities in packaged form;

18 I. "primary standards" means the physical standards
19 of the state that serve as the legal reference from which all
20 other standards for weights and measures are derived;

21 J. "sale from bulk" means the sale of commodities
22 when the quantity is determined at the time of sale;

23 K. "secondary standards" means the physical
24 standards that are traceable to the primary standards through
25 comparisons or by using acceptable laboratory procedures and

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1 that are used in the enforcement of laws and rules relating to
2 weights and measures;

3 ~~[G.]~~ L. "sell" [and] or "sale" [include] includes
4 barter and exchange;

5 ~~[D. "apparatus" includes any manual or mechanical~~
6 ~~unit, method or device used to determine weight, measure or~~
7 ~~quantity;~~

8 ~~E. "correct" means the condition of apparatus which~~
9 ~~by reason of its construction and adjustment will give accurate~~
10 ~~readings or indications of weight and quantity;~~

11 ~~F. "incorrect" means the condition of apparatus or~~
12 ~~its construction which precludes it from being reasonably~~
13 ~~permanent in its adjustment or which will not allow it to~~
14 ~~repeat its indications of weight or quantity with accuracy;~~

15 ~~G. "in package form" means a good or commodity~~
16 ~~packaged or contained in advance of sale so as to constitute a~~
17 ~~unity quantity of the good or commodity; a good or commodity~~
18 ~~not contained, but upon which is marked a selling price based~~
19 ~~upon weight or measure, shall be construed to be in packaged~~
20 ~~form; a shipping container containing goods or commodities in~~
21 ~~packaged form is excluded from this definition;]~~

22 M. "service establishment" means a person that
23 installs, services, repairs or reconditions commercial weighing
24 or measuring devices solely under that person's ownership;

25 N. "service technician" means a person employed by

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1 a service establishment who installs, services, repairs or
2 reconditions commercial weighing or measuring devices;

3 O. "unsealed" means a commercial weighing or
4 measuring device that lacks a department-issued approval level,
5 tag, stamped or etched impression or similar indication of
6 official approval for the device to operate in commercial
7 service;

8 [H.] P. "weight" means net weight; and

9 [~~I. "sale from bulk" means the sale of commodities~~
10 ~~when the quantity is determined at the time of sale;~~

11 [~~J. "board" means the board of regents of New Mexico~~
12 ~~state university; and~~

13 [~~K. "director" means the director of the New Mexico~~
14 ~~department of agriculture]~~

15 Q. "weights and measures" means all instruments and
16 devices used for weighing and measuring and their necessary and
17 associated accessories and appliances."

18 SECTION 57. A new section of the Weights and Measures
19 Act, Section 57-17-1.1 NMSA 1978, is enacted to read:

20 "57-17-1.1. [NEW MATERIAL] SHORT TITLE.--Chapter 57,
21 Article 17 NMSA 1978 may be cited as the "Weights and Measures
22 Act"."

23 SECTION 58. Section 57-17-2 NMSA 1978 (being Laws 1973,
24 Chapter 386, Section 2) is amended to read:

25 "57-17-2. SYSTEMS OF WEIGHTS AND MEASURES.--The system
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1 of weights and measures in customary use in the United States
2 and the metric system of weights and measures are jointly
3 recognized and either one or both of these systems shall be
4 used for all commercial purposes in [~~the state~~] New Mexico.
5 The definitions of basic units of weights and [~~measure~~]
6 measures, the tables of [~~weight~~] weights and [~~measure~~] measures
7 and weights and measures equivalents as published by the
8 national [~~bureau of standards~~] institute of standards and
9 technology shall be used by the board in arriving at standards
10 [~~which~~] that shall govern weighing and measuring equipment and
11 transactions in [~~the state~~] New Mexico."

12 SECTION 59. Section 57-17-3 NMSA 1978 (being Laws 1973,
13 Chapter 386, Section 3) is amended to read:

14 "57-17-3. PHYSICAL STANDARDS.--Weights and measures that
15 are traceable to the United States prototype standards supplied
16 by the federal government or approved as being satisfactory by
17 the national [~~bureau~~] institute of standards and technology
18 shall be the state primary standards of weights and measures.
19 The state primary standards shall be maintained in such
20 calibration as prescribed by the national [~~bureau~~] institute of
21 standards and technology. Secondary standards may be
22 prescribed by the director. Secondary standards shall be
23 verified upon their initial receipt and as often thereafter as
24 deemed necessary by the director."

25 SECTION 60. Section 57-17-4 NMSA 1978 (being Laws 1973,
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1 Chapter 386, Section 4) is amended to read:

2 "57-17-4. ENFORCEMENT AND ADMINISTRATION.--

3 A. ~~[Sections 76-1-28 through 76-1-55 NMSA 1953]~~ The
4 Weights and Measures Act shall be administered and enforced by
5 the ~~[director]~~ department under the direction of the board.
6 ~~[Such sums as may be]~~ Money appropriated by the legislature and
7 fees ~~[which]~~ that are collected shall be allowed to the
8 department for salaries for inspectors and for necessary
9 clerical employees, necessary equipment and supplies, travel
10 and contingent expenses.

11 B. The board shall, after due notice and hearing,
12 issue reasonable ~~[regulations]~~ rules to carry out the
13 provisions of ~~[Chapter 76 NMSA 1953]~~ the Weights and Measures
14 Act. The ~~[regulations]~~ rules shall have the force of law and
15 may include ~~[but not be limited to]~~:

16 (1) standards of weight, measure or count,
17 reasonable standards of fill and labeling requirements for a
18 commodity in package form; and

19 (2) specifications and tolerances of
20 apparatus, weights and measures designed to eliminate from use
21 apparatus the inaccuracy of which would facilitate the
22 perpetration of fraud."

23 SECTION 61. Section 57-17-5 (being Laws 1959, Chapter
24 202, Section 6, as amended) is repealed and a new Section
25 57-17-5 NMSA 1978 is enacted to read:

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1 "57-17-5. [NEW MATERIAL] REGISTRATION--FEES.--

2 A. Prior to installing, servicing, repairing or
3 reconditioning a commercial weighing or measuring device in New
4 Mexico, a service establishment and each service technician
5 employed by or who is part of the service establishment shall
6 be registered with the department.

7 B. Without registration, a service establishment or
8 service technician is not allowed to place a commercial
9 weighing or measuring device into commercial service or to
10 remove official stickers or tags. Only commercial weighing or
11 measuring devices placed in service by a registered service
12 technician or by the department are legal for commercial use in
13 New Mexico.

14 C. The board shall promulgate rules for service
15 establishments that include registration forms, service
16 technician qualifications, authority and responsibilities of
17 the registrant and sufficient certified test standards.

18 D. Each registration shall be issued for a period
19 of one year. The effective date of registration shall be
20 determined by rule. The registrant shall file a renewal
21 application with the department prior to the expiration date.
22 Renewal applications shall be in the form prescribed by rule.
23 A late fee shall be charged for failure to submit a complete
24 application for renewal of registration prior to the expiration
25 of the current registration.

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1 E. The department may suspend or revoke a
2 registration of a service establishment or service technician
3 on satisfactory evidence that the registrant has not met the
4 provisions of the Weights and Measures Act or rules promulgated
5 in accordance with that act. A registration shall not be
6 suspended or revoked or application denied until the registrant
7 is given an opportunity to appear for a hearing before the
8 director."

9 SECTION 62. Section 57-17-6 NMSA 1978 (being Laws 1959,
10 Chapter 202, Section 6, as amended) is amended to read:

11 "57-17-6. CUSTODY OF STATE STANDARDS.--The New Mexico
12 standards of [~~weight~~] weights and [~~measure~~] measures shall be
13 kept in a safe and suitable place in the [~~office of the~~
14 ~~director~~] department and shall not be removed except for
15 repairs or certification."

16 SECTION 63. Section 57-17-7 NMSA 1978 (being Laws 1959,
17 Chapter 202, Section 7, as amended) is amended to read:

18 "57-17-7. DUTIES OF [~~DIRECTOR~~] DEPARTMENT.--It [~~shall~~
19 ~~be~~] is the duty of the [~~director~~] department to:

20 A. enforce the provisions of [~~this~~] the Weights and
21 Measures Act;

22 B. maintain custody of the New Mexico standards of
23 [~~weight~~] weights and [~~measure~~] measures and of the other
24 standards and equipment entrusted to [~~his~~] the department's
25 care;

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1 C. keep accurate records of all standards of
2 [~~weight~~] weights and [~~measure~~] measures;

3 D. keep and have general supervision over apparatus
4 used to determine [~~weight~~] weights and [~~measure~~] measures
5 offered for sale, sold or in use in [~~the state~~] New Mexico;

6 E. report annually to the governor [~~of the state~~]
7 the report to cover all activities carried out [~~under~~] pursuant
8 to the provisions of [Chapter 76, NMSA 1953] the Weights and
9 Measures Act and the Weighmaster Act;

10 F. test at least once annually all apparatus,
11 weights and measures used in checking the receipt or
12 disbursement of supplies in institutions supported in whole or
13 in part by [~~moneys~~] money appropriated by the legislature;

14 G. inspect and test for accuracy, at least once
15 annually, commercial apparatus, weights and measures used in:

16 (1) determining the weight, measurement or
17 count of goods and commodities sold or offered for sale on the
18 basis of weight or measure;

19 (2) computing the basic charge or payment for
20 services rendered on the basis of weight or measure; or

21 (3) determining weight or measure when a
22 charge is made for such determination; and

23 H. weigh, measure and inspect from time to time
24 packages and amounts of goods and commodities offered for sale,
25 sold or in the process of delivery to determine whether the

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1 weight, measure or quantity of the good or commodity is the
2 same as that represented by the terms of the offer or sale."

3 SECTION 64. Section 57-17-8 NMSA 1978 (being Laws 1959,
4 Chapter 202, Section 8, as amended) is amended to read:

5 "57-17-8. POWERS OF THE [~~DIRECTOR--POLICE POWERS~~]
6 DEPARTMENT--RIGHT OF ENTRY AND STOPPAGE.--To facilitate the
7 performance of [~~his~~] the department's duties and the
8 enforcement of the provisions of [~~this~~] the Weights and
9 Measures Act and the [~~regulations~~] rules promulgated
10 [~~hereunder~~] pursuant to that act, the [~~director~~] department, in
11 the performance of [~~his~~] its duties, is empowered to:

12 A. approve for use and seal or mark with
13 appropriate devices the weights and measures [~~he~~] that the
14 department finds upon inspection and test to be correct;

15 B. reject and mark or tag as "recommended for
16 repair" apparatus, weights and measures [~~he~~] that the
17 department finds upon inspection and test to be incorrect but
18 [~~which~~] that in [~~his~~] its best judgment are susceptible of
19 satisfactory repair;

20 C. condemn or seize weights and measures [~~he~~] that
21 the director finds upon inspection to be incorrect but [~~which~~]
22 that in [~~his~~] the director's best judgment are not susceptible
23 of satisfactory repair;

24 D. [~~arrest by formal warrant~~] seize without
25 warrant for use as evidence incorrect or unsealed apparatus;

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1 E. file a criminal complaint in magistrate court
2 for a willful [violate~~r~~] and knowing or repeated violation of
3 the provisions of [this] the Weights and Measures Act or the
4 [regulations] rules promulgated [hereunder and to seize without
5 formal warrant for use as evidence incorrect or unsealed
6 apparatus] in accordance with that act; weights and measures
7 and packages or goods and commodities found by [him] the
8 department to be sold or offered for sale in violation of [law]
9 that act;

10 [E. ~~to~~] F. enter without formal warrant a
11 structure or premises for the purposes of inspection during
12 business hours;

13 [F.] G. conduct investigations to ensure compliance
14 with [this] the Weights and Measures Act; and

15 [G.] H. issue stop-use, hold and removal orders
16 with respect to [any] weights and measures commercially used
17 and stop-sale, hold and removal orders with respect to [any]
18 packaged commodities or bulk commodities kept, offered or
19 exposed for sale."

20 SECTION 65. Section 57-17-10 NMSA 1978 (being Laws 1959,
21 Chapter 202, Section 10, as amended) is amended to read:

22 "57-17-10. DUTY OF OWNER OF INCORRECT APPARATUS.--An
23 owner or user of apparatus [~~of weight or measure~~] recommended
24 for repair shall cause the apparatus to be made correct within
25 a reasonable period specified by the director or an inspector.

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1 Except, at the election of the owner or user, the apparatus may
2 be disposed of in a manner specifically authorized by the
3 director. An apparatus of weight or measure [~~which~~] that has
4 been recommended for repair shall not be used again for a
5 commercial purpose until it has been made correct and found to
6 be correct by the director or an inspector unless otherwise
7 provided for by [~~regulation~~] rule."

8 SECTION 66. Section 57-17-12 NMSA 1978 (being Laws 1959,
9 Chapter 202, Section 12, as amended) is amended to read:

10 "57-17-12. DECLARATIONS ON PACKAGES--DECLARATIONS OF
11 UNIT PRICE ON RANDOM PACKAGES.--

12 A. Except as otherwise provided by law or
13 [~~regulation~~] rule of the board, a commodity in package form
14 shall bear on the outside of the package:

15 (1) a definite, plain and conspicuous
16 declaration of net quantity of the contents in terms of weight,
17 measure or count and in the case of any package not sold in the
18 premises where packed;

19 (2) the name and place of business of the
20 manufacturer, packer or distributor; and

21 (3) the identity of the commodity in the
22 package, unless the [~~same~~] commodity can easily be identified
23 through the wrapper or container.

24 B. In addition to the declarations required by this
25 section, any package being one of a lot containing random

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1 weights of the same commodity and bearing the total selling
2 price of the package shall bear on the outside of the package a
3 plain and conspicuous declaration of the price per single unit
4 of weight."

5 SECTION 67. A new section of the Weights and Measures
6 Act is enacted to read:

7 "[NEW MATERIAL] FEES--ADMINISTRATIVE PENALTIES.--

8 A. The following fees shall be collected by the
9 department and shall accompany the application for registration
10 or renewal of registration:

11 (1) an annual registration fee for each
12 service establishment, not to exceed three hundred dollars
13 (\$300);

14 (2) an annual registration fee for a service
15 technician, not to exceed one hundred dollars (\$100); and

16 (3) a late renewal of registration fee of one
17 hundred dollars (\$100), which is in addition to the annual
18 registration fee.

19 B. Money collected from fees shall be deposited
20 with New Mexico state university to administer the provisions
21 of the Weights and Measures Act.

22 C. Instead of or in addition to criminal penalties
23 provided for in the Weights and Measures Act, the department
24 may assess administrative penalties for violations of that act
25 or rules promulgated in accordance with that act. A fine shall

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1 not exceed five thousand dollars (\$5,000) per violation and
2 shall be assessed as provided in Section 76-1-6 NMSA 1978."

3 SECTION 68. Section 57-17-18 NMSA 1978 (being Laws 1959,
4 Chapter 202, Section 26, as amended) is repealed and a new
5 Section 57-17-18 NMSA 1978 is enacted to read:

6 "57-17-18. [NEW MATERIAL] OFFENSES AND PENALTIES--
7 WILLFUL AND REPEAT OFFENSES.--A person who, alone or through an
8 employee, agent or other person, willfully and knowingly or
9 repeatedly performs any of the acts specified in this section
10 is guilty of a misdemeanor and upon conviction shall be
11 punished by a fine of not to exceed ten thousand dollars
12 (\$10,000) or by imprisonment in the county jail for not more
13 than one year, or both:

14 A. use or have in the person's possession for the
15 purpose of using for any commercial purpose, sell, offer for
16 sale or hire or have in the person's possession for the purpose
17 of selling or hiring an incorrect weight or measure or any
18 device or instrument calculated to falsify any weight or
19 measure;

20 B. use or have in the person's possession for
21 current use in the buying or selling of any commodity or good
22 or for hire or award; in the computation of a basic charge or
23 payment for services rendered on the basis of weight or
24 measurement; in the determination of weight or measurement when
25 a charge is made for such determination; or a weight or measure

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1 that has not been sealed within the next preceding year by the
2 director or an inspector unless written notice has been given
3 to the director to the effect that the weight or measure is
4 available for examination or is due for reexamination, as the
5 case may be and unless specific written permission to use the
6 weight or measure has been received from the office of the
7 director;

8 C. dispose of a rejected or condemned weight or
9 measure in a manner contrary to law;

10 D. contrary to law, remove from a weight or measure
11 a tag, seal or mark placed by the director or an inspector;

12 E. sell or offer for sale less than the quantity
13 the person represents of a commodity, good or service;

14 F. take more than the quantity the person
15 represents of a commodity, good or service when, as a buyer,
16 the person furnishes the weight or measure by means of which
17 the amount of the commodity, good or service is determined;

18 G. keep for the purpose of sale, advertisement or
19 offer for sale or sell any commodity, good or service in a
20 condition or manner contrary to law; and

21 H. use in retail trade, except in the preparation
22 of packages put up in advance of sale and of medical
23 prescriptions, a weight or measure that is not so positioned
24 that its indications may be accurately read and the weighing or
25 measuring operation observed from some position that may

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1 reasonably be assumed by a customer."

2 SECTION 69. Section 57-17-19 NMSA 1978 (being Laws 1973,
3 Chapter 386, Section 18) is amended to read:

4 "57-17-19. INSPECTION FEES.--The board may establish
5 fees to recover the cost of performing services of inspection,
6 testing or calibrating weights, measures and commercial
7 weighing and measuring devices when such services are requested
8 by the person owning or using the weight, measure or device.
9 All fees shall be placed in an account with the business office
10 of New Mexico state university to be used for the enforcement
11 of [~~Chapter 76 NMSA 1953~~] the Weights and Measures Act and the
12 Weighmaster Act."

13 SECTION 70. Section 57-17-20 NMSA 1978 (being Laws 2021,
14 Chapter 98, Section 8) is amended to read:

15 "57-17-20. HOMEMADE FOOD ITEMS--EXEMPTION.--The
16 provisions of [~~Chapter 57, Article 17 NMSA 1978~~] the Weights
17 and Measures Act shall not apply to homemade food items
18 produced or sold pursuant to the Homemade Food Act."

19 SECTION 71. Section 57-18-1 NMSA 1978 (being Laws 1973,
20 Chapter 236, Section 1) is amended to read:

21 "57-18-1. SHORT TITLE.--~~[This act]~~ Chapter 57, Article
22 18 NMSA 1978 may be cited as the "Weighmaster Act"."

23 SECTION 72. Section 57-18-2 NMSA 1978 (being Laws 1973,
24 Chapter 236, Section 2, as amended) is amended to read:

25 "57-18-2. DEFINITIONS.--As used in the Weighmaster Act:
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1 ~~[A. "weighmaster" means a natural person licensed~~
2 ~~under the provisions of the Weighmaster Act;~~

3 ~~B. "vehicle" means any device by which any~~
4 ~~property, produce, commodity or article is transported;~~

5 ~~G. "director" means the director of the state~~
6 ~~department of agriculture;~~

7 ~~D.]~~ A. "board" means the board of regents of New
8 Mexico state university;

9 B. "department" means the New Mexico department of
10 agriculture;

11 C. "director" means the director of the department;

12 ~~[E.]~~ D. "public weighing" means the determination
13 of any weight upon which a sale is based or upon which a basic
14 charge or payment for services rendered is based when the
15 person making the weight determination is not a party to or an
16 agent of the party to the transaction upon which the weight is
17 based;

18 ~~[F.]~~ E. "third-party weighing" means public
19 weighing; [and]

20 F. "vehicle" means any device by which any
21 property, produce, commodity or article is transported;

22 G. "weighmaster" means a natural person licensed
23 under the provisions of the Weighmaster Act; and

24 ~~[G.]~~ H. "weight certificate" means a document in
25 the form of a certificate consecutively numbered and indicating

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1 the weight in accordance with the standards of weights and
2 measures set forth in [~~Sections 76-1-28 through 76-1-54 NMSA~~
3 ~~1953~~] the Weights and Measures Act."

4 SECTION 73. Section 57-18-7 NMSA 1978 (being Laws 1973,
5 Chapter 236, Section 7) is repealed and a new Section 57-18-7
6 NMSA 1978 is enacted to read:

7 "57-18-7. [NEW MATERIAL] LICENSE FEES.--The board may
8 promulgate rules to provide for the collection of license fees;
9 provided that license fees shall not exceed three hundred
10 dollars (\$300) for each weighmaster and one hundred dollars
11 (\$100) for each deputy weighmaster. If a complete application
12 for renewal of a license is not filed prior to the expiration
13 of the current license, the department may charge a late fee
14 not to exceed one hundred dollars (\$100), which charge is in
15 addition to the annual license fee. Money collected pursuant
16 to the Weighmaster Act shall be deposited with New Mexico state
17 university to administer that act."

18 SECTION 74. Section 57-18-11 NMSA 1978 (being Laws 1973,
19 Chapter 236, Section 11) is amended to read:

20 "57-18-11. DEPUTY WEIGHMASTER.--~~[Except for the surety~~
21 ~~bond requirement provided in Section 8 of the Weighmaster Act]~~
22 The duties, qualifications and responsibilities of the deputy
23 weighmaster shall be the same as those of the weighmaster
24 provided in the Weighmaster Act. The deputy weighmaster shall
25 perform [~~his~~] the deputy weighmaster's duties in accordance

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1 with the same provisions of the Weighmaster Act applicable to
2 the weighmaster."

3 SECTION 75. A new section of the Weighmaster Act is
4 enacted to read:

5 "[NEW MATERIAL] ADMINISTRATIVE PENALTIES.--The department
6 may assess an administrative penalty not to exceed five
7 thousand dollars (\$5,000) for each violation of the Weighmaster
8 Act or rules promulgated in accordance with that act and may
9 suspend, revoke or refuse to renew a license. Penalties shall
10 be assessed as provided in Section 76-1-6 NMSA 1978."

11 SECTION 76. Section 57-19-25 NMSA 1978 (being Laws 1993,
12 Chapter 98, Section 1) is amended to read:

13 "57-19-25. SHORT TITLE.--~~[This act]~~ Sections 57-19-25
14 through 57-19-37 NMSA 1978 may be cited as the "Petroleum
15 Products Standards Act".

16 SECTION 77. Section 57-19-27 NMSA 1978 (being Laws 1993,
17 Chapter 98, Section 3, as amended) is amended to read:

18 "57-19-27. DEFINITIONS.--As used in the Petroleum
19 Products Standards Act:

20 A. "biodiesel" means a renewable, biodegradable,
21 mono alkyl ester combustible liquid fuel that is derived from
22 agricultural plant oils or animal fats and that meets American
23 society for testing and materials specification for biodiesel
24 fuel, B100, blend stock for distillate fuels;

25 B. "board" means the board of regents of New Mexico

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1 state university;

2 C. "dealer" means a dealer as defined by the
3 Special Fuels Supplier Tax Act;

4 D. "department" means the New Mexico department of
5 agriculture;

6 E. "diesel fuel" means any diesel-engine fuel used
7 for the generation of power to propel a motor vehicle;

8 F. "director" means the director of the New Mexico
9 department of agriculture;

10 G. "distributor" means a distributor as defined by
11 the Gasoline Tax Act;

12 H. "lubricating oil" means any oil used to
13 lubricate transmissions, gears or axles;

14 I. "motor fuel" means any liquid product used for
15 the generation of power in an internal combustion engine,
16 excluding liquified petroleum gases and aviation fuels;

17 J. "motor oil" means oil for use in lubricating
18 internal combustion engines;

19 [~~K. "person" means any natural person, firm,
20 partnership, association or corporation;~~

21 ~~E.]~~ K. "petroleum product" means motor fuel,
22 kerosene, lubricating oil, motor oil, anti-freeze or brake
23 fluid; [and

24 ~~M.]~~ L. "retailer" means any person who sells motor
25 fuel and delivers the motor fuel into the supply tanks of motor

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1 vehicles;

2 M. "service establishment" means a person that
3 installs, services, repairs or reconditions commercial weighing
4 and measuring devices solely under that person's ownership; and

5 N. "service technician" means a person employed by
6 a service establishment who installs, services, repairs or
7 reconditions commercial weighing or measuring devices."

8 SECTION 78. Section 57-19-34 NMSA 1978 (being Laws 1993,
9 Chapter 98, Section 10) is repealed and a new Section 57-19-34
10 NMSA 1978 is enacted to read:

11 "57-19-34. [NEW MATERIAL] REGISTRATION--RENEWAL--
12 SUSPENSION OR REVOCATION--PROHIBITION OF UNREGISTERED
13 ACTIVITIES.--

14 A. The board shall promulgate rules for the
15 registration of petroleum service establishments and service
16 technicians, including technician qualifications, registration
17 requirements, authority and responsibilities of registrants and
18 sufficient certified test standards.

19 B. Without registration, a service establishment or
20 service technician shall not place a device into commercial
21 service or remove official stickers or tags. Only devices
22 placed in service by a registered service technician or by the
23 department are legal for commercial use in New Mexico.

24 C. Prior to installing, servicing, repairing or
25 reconditioning a commercial weighing or measuring device in

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1 this state, each service establishment and each service
2 technician shall be registered with the department on a form
3 furnished by the department. The application shall be
4 accompanied by the applicable registration fee.

5 D. Registration shall be issued for a period of one
6 year and renewal applications shall be filed with the
7 department prior to the expiration of the current registration.

8 E. The director may suspend or revoke the
9 registration of a service establishment or service technician
10 on satisfactory evidence that the registrant has violated a
11 provision of the Petroleum Products Standards Act or rules
12 promulgated in accordance with that act. The department may
13 assess an administrative penalty not to exceed five thousand
14 dollars (\$5,000) for each violation of the Petroleum Products
15 Standards Act or rules promulgated in accordance with that act.
16 Penalties shall be assessed as provided in Section 76-1-6 NMSA
17 1978."

18 SECTION 79. Section 57-19-35 NMSA 1978 (being Laws 1993,
19 Chapter 98, Section 11) is amended to read:

20 "57-19-35. FEES--MONEY COLLECTED--~~[All money collected~~
21 ~~pursuant to the provisions of the Petroleum Products Standards~~
22 ~~Act]~~

23 A. The following fees shall be collected by the
24 department:

25 (1) annual service establishment registration,

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1 not to exceed three hundred dollars (\$300);

2 (2) annual service technician registration,
3 not to exceed one hundred dollars (\$100); and

4 (3) renewal late fee, not to exceed one
5 hundred dollars (\$100).

6 B. Fees collected shall be deposited with the board
7 [~~of regents of New Mexico state university~~] for use by the
8 department in carrying out the provisions of [~~that~~] the
9 Petroleum Products Standards Act."

10 SECTION 80. Section 57-19-36 NMSA 1978 (being Laws 1993,
11 Chapter 98, Section 12, as amended) is repealed and a new
12 Section 57-19-36 NMSA 1978 is enacted to read:

13 "57-19-36. [NEW MATERIAL] ADMINISTRATIVE AND CRIMINAL
14 PENALTIES.--

15 A. No person, alone, by the person's employee or
16 agent or as the employee or agent of another person, shall:

17 (1) violate the provisions of the Petroleum
18 Products Standards Act;

19 (2) violate a rule adopted pursuant to the
20 Petroleum Products Standards Act; or

21 (3) misrepresent a petroleum product as
22 meeting the standards of the Petroleum Products Standards Act.

23 B. The department may assess an administrative
24 penalty not to exceed five thousand dollars (\$5,000) for each
25 violation of the Petroleum Products Standards Act or rules

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1 promulgated in accordance with that act. Penalties shall be
2 assessed as provided in Section 76-1-6 NMSA 1978."

3 SECTION 81. RECOMPILATION.--Sections 60-16-3 through
4 60-16-6 NMSA 1978 (being Laws 2018, Chapter 47, Sections 3
5 through 6) are recompiled as Sections 76-16A-3 through 76-16A-6
6 NMSA 1978.

7 SECTION 82. REPEAL.--

8 A. Sections 57-17-16 and 57-17-17 NMSA 1978 (being
9 Laws 1959, Chapter 202, Sections 23 and 25, as amended) are
10 repealed.

11 B. Section 57-18-8 NMSA 1978 (being Laws 1973,
12 Chapter 236, Section 8, as amended) is repealed.

13 C. Section 76-4-15 NMSA 1978 (being Laws 1973,
14 Chapter 366, Section 15) is repealed.

15 D. Sections 76-5-1 and 76-5-14 NMSA 1978 (being
16 Laws 1899, Chapter 56, Section 1 and Laws 1959, Chapter 195,
17 Section 5, as amended) are repealed.

18 E. Sections 76-9-6, 76-9-9 and 76-9-10 NMSA 1978
19 (being Laws 1975, Chapter 122, Sections 6, 9 and 10) are
20 repealed.

21 SECTION 83. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is October 1, 2025.