

SENATE BILL 214

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

INTRODUCED BY

Crystal Brantley

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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.

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

B. Failure to pay an administrative penalty or take action to correct a violation may result in suspension or revocation of licensure or the assessment of three times the maximum penalty provided by law, or both. The notice of violation, the time allowed for correction, the possible suspension or revocation of a license or denial of license application or renewal, the assessment of a penalty and the

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person's right to a hearing shall follow the procedures of the Administrative Procedures Act. A final agency decision on the assessment of a penalty is a final agency action and may be appealed as provided by Section 39-3-1.1 NMSA 1978.

C. Willfully and knowingly or repeatedly refusing to correct a violation or pay administrative penalties is a fourth degree felony and may be punished by a definite term of up to eighteen months in prison or fine of up to fifteen thousand dollars (\$15,000), or both.

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

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

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

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

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

"76-4-6. REGISTRATION.--

A. Each pesticide or device that is distributed within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department subject to the provisions of the Pesticide Control Act. However, the registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at [~~such~~] that plant or warehouse as a constituent part to make a pesticide [~~which~~] that is registered under the provisions of the Pesticide Control Act.

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

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

(2) the name of the pesticide or device;

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

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

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

C. The department, when it deems it necessary in the administration of the Pesticide Control Act, may require the submission of the complete formula of any pesticide, including all ingredients ~~which~~ that will prevent, destroy, repel, control or mitigate pests or ~~which~~ that will act as a plant regulator, defoliant, desiccant or those ~~which~~ that act as a functioning agent in a spray adjuvant, and all ingredients ~~which~~ that do not perform these functions.

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

E. The board may prescribe other necessary information by ~~regulation~~ rule.

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

G. ~~Any~~ A registration approved by the department

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and in effect on December 31 of the year for which a renewal application has been made and the [~~proper~~] renewal fee paid shall continue in full force [~~and effect~~] until the department notifies the applicant that the registration has been renewed or denied in accord with the provisions of the Pesticide Control Act. Forms for reregistration shall be mailed to registrants at least thirty days prior to the due date.

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

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

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

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

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

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

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

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

(3) the applicant shall be required to pass a

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written examination demonstrating [~~his competency~~] competency with respect to the use and handling of the pesticide or pesticides covered by [~~his~~] certification prior to purchase and use of the product. Examination material shall address all elements stated in category-specific standards of competence in Sections 171.105, 171.303(a)(1), 171.303(a)(3) and 171.303(b)(3)(ii)-(iv) of the Code of Federal Regulations; and

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

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

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

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

SECTION 5. Section 76-4-22 NMSA 1978 (being Laws 1973,

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Chapter 366, Section 22, as amended) is amended to read:

"76-4-22. FEES.--

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

- (1) initial application or annual ~~[registration]~~ renewal fee for each pesticide or device ~~[registered]~~ not more than. [~~\$150~~] \$300;
- (2) annual pesticide dealer license for each location or outlet within the state or, if there is no outlet in the state, for the principal out-of-state location or outlet, not more than \$100;
- (3) annual pest management consultant license, not more than \$100;
- (4) annual commercial pesticide applicator license, not more than. \$100;
- (5) annual operator license, not more than \$75.00;
- (6) annual noncommercial applicator license, not more than \$100;
- (7) private applicator certification or renewal, not more than. \$25.00;
- (8) additional inspection required to certify each unit of aircraft, ground or manual equipment that fails to

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pass inspection, not more than. \$25.00; and

(9) examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial pesticide applicator, noncommercial applicator or operator or any combination thereof, not more than. \$20.00.

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

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

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

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

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

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

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

(3) apply known ineffective or improper materials;

(4) operate faulty or unsafe apparatus;

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

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

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

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

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

(10) use fraud or misrepresentation in making an application for a license or renewal of a license;

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

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

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

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

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

(16) use or supervise the use of a pesticide

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[which] that is restricted to use by certified applicators when not qualified as a certified applicator; or

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

C. Any person who has had a license, permit or certification denied, suspended or revoked by the department may request a hearing before the department. The request for a hearing shall be made within fifteen days of receipt of a certified letter notifying [~~him~~] the person of the department's action."

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

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

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

"76-4-38. COOPERATION.--The department may cooperate, receive grants-in-aid and enter into cooperative agreements with any agency of the federal government, of this state or its

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subdivisions or with any agency of another state in order to:

- A. secure uniformity of regulations;
- B. enter into cooperative agreements with the United States environmental protection agency to register pesticides under the authority of the Pesticide Control Act and the Federal Environmental Pesticide Control Act of 1972;
- C. cooperate in the enforcement of the Federal [~~Environmental Pesticide Control~~] Insecticide, Fungicide and Rodenticide Act and federal regulations through the use of state or federal personnel and facilities or both and to implement cooperative enforcement programs, including [~~but not limited to~~] the registration of pesticides, collection and analysis of pesticides and devices, inspection of storage facilities and certification of applicators;
- D. enter into contracts with other agencies, including federal agencies, for the purpose of training pesticide dealers, pesticide management consultants, pesticide applicators or operators;
- E. publish information and conduct short courses on the storage, transportation, distribution, application, use, registration and disposal of pesticides and devices and environmental implications thereof;
- F. enter into contracts for either monitoring pesticides or analyzing land, including agricultural products that will be consumed by any living organism other than plants,

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for pesticide residues or both;

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

H. regulate pesticide applicators and operators."

SECTION 9. Section 76-4-39 NMSA 1978 (being Laws 1973, Chapter 366, Section 39) is amended to read:

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

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

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

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

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

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in plants;

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

D. "florist stock" means any parts of a plant used for decorative purposes, such as cut flowers, evergreens, annuals or perennials;

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

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

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

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

I. "collected plants" means those plants dug or

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gathered from any location in which plants are found growing wild;

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

K. "landscaper" means any person who buys and resells, in connection with the person's design services, plants used in landscaping;

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

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

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

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

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

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

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

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

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

U. "vegetable plant" means a plant grown that at maturity is capable of producing a vegetable that may be used for human consumption."

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

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

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

"76-5-15. INSPECTION OF NURSERIES.--The department is authorized to inspect all nurseries in the state, [~~and~~] all

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nursery stock grown within the state, all nursery stock imported into the state and all nursery stock transported through the state. If the nursery stock is found to be free of plant pests, [~~an inspection certificate shall be issued certifying that the nursery stock has been inspected and is believed to be free from plant pests. The certificate shall be valid for one license year~~] the license shall remain in good standing. If, at any subsequent inspection, the nursery is found to be infested with plant pests, the [~~certificate~~] license may be [~~cancelled~~] suspended until the conditions are corrected or revoked."

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

"76-5-16. [~~DEALERS', OR AGENTS'~~] NURSERY, DEALER, PRODUCER OR AGENT LICENSES.--Every in-state nursery, dealer, producer or agent selling, importing into the state or storing in this state nursery or florist stock shall, [~~before October 1 of each year and~~] before engaging in the business of soliciting, landscaping, taking orders, selling, storing or delivering any such stock, apply to the department for a nursery, [~~or~~] florist, [~~dealer's, landscaper's or agent's~~] dealer, landscaper or agent license. Nurseries, dealers, producers or agents distributing stock directly or on a consignment basis for more than one store or place of business or sales ground or selling stock from motor vehicles or other

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vehicles shall secure a license for each place or each vehicle from which the stock is sold. The application for license shall designate [~~each~~] a single place of business [~~of~~] for the person applying. The application shall be accompanied by the prescribed fee for each place or each vehicle from which the stock is sold. A separate application shall be submitted for each location. Upon [~~proper~~] a complete application and receipt of the [~~proper fee~~] applicable fees, the department shall issue the license, which shall be valid for one license year. If any licensee is found to have violated any of the provisions of the Plant Protection Act or rules [~~regulations or orders of the department~~] promulgated in accordance with that act, the license may be revoked and, [~~in~~] at the discretion of the department, the person may be refused a license in the state. [~~Those~~] Dealers who sell only vegetable plants [~~that are sold~~] for food production or dealers selling only cactus plants may obtain a special dealer's license for the prescribed fee. Applicants for the special dealer's license shall state that they will handle only vegetable plants or cactus plants [~~and that the plants will be from stock certified by an inspector~~]."

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

"76-5-19. LABELS.--All nursery stock and collected plants sold, handled, installed or [~~trafficked~~] off-loaded in the

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state shall be securely and correctly labeled ~~[either as to]~~
with common ~~[or]~~ and botanical names based on a current and
recognized industry reference. All labels shall indicate the
origin and nursery of production."

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

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

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

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

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

"76-5-25. POWERS OF BOARD AND DEPARTMENT.--The department
shall enforce the provisions of the Plant Protection Act. The
board shall adopt and promulgate such rules as may be necessary
for its administration and enforcement, including defining
license year. The board may adopt sets of standards and grades

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for nursery stock and ~~[if it so desires]~~ florist stock and
adopt those standards and grades recommended by an industry-
recognized reference, ~~[to]~~ take any action necessary to ensure
that all nursery stock sold in the state meets the standards
and grades established and ~~[to]~~ stop sales of any substandard
stock."

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

"76-5-26. FEES.--

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

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

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

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

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

~~(5) annual fee for collected plants permit,~~

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~~seventy-five dollars (\$75.00)]~~

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

(2) annual vegetable plant producer license for a person growing only vegetable plants, one hundred dollars (\$100);

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

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

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

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

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

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

B. If the complete application and applicable fees for renewal of ~~[any]~~ an annual license ~~[permit or certificate]~~ provided for in the Plant Protection Act ~~[is]~~ are not filed prior to the expiration of the prior license ~~[permit or~~

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~~certificate~~], the fee for [~~such~~] the license [~~permit or certificate~~] shall be double the amount specified in this section; provided, however, that this double fee shall not apply if the applicant has not engaged in business subsequent to the expiration of [~~his~~] the prior license [~~permit or certificate~~] and furnishes an affidavit certifying to that fact.

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

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

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

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

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

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

"76-5-28. [NEW MATERIAL] PENALTIES.--The department may .229578.4SAAIC February 17, 2025 (1:33pm)

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

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

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

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

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

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

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

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

D. "beekeeper" means a person who owns, leases or

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manages bees;

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

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

SCONC→~~G. "commercial apiary" means a location where a beekeeper is required to maintain the minimum number of colonies designated by the board;~~←SCONC

SCONC→G. "commercial apiary" means a location where a beekeeper is required to maintain the minimum number of colonies designated by the board;←SCONC

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

[I.] SCONC→~~H.~~←SCONC SCONC→~~I.~~←SCONC "department" means the New Mexico department of agriculture;

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

[K.] SCONC→~~J.~~←SCONC SCONC→~~K.~~←SCONC "hive" means a

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container made or prepared that is used as a home by a colony of bees; and

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

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

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

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

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

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

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country.

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

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

"76-9-5. INSPECTION--ACCESS--INTERFERENCE.--~~[A. The department shall notify each beekeeper prior to the initial annual inspection of his apiary and, if requested by the beekeeper, an inspector shall make the apiary inspection in the presence of the beekeeper or his representative and at a time that conforms to the efficient management of bees]~~ The department may inspect any colony or hive that the department suspects might be or is infected or infested with a contagious disease that may pose a health risk to other colonies.

Subsequent inspections may be made by an inspector, as needed, to locate and control contagious disease and ~~[regulate the location of any apiary. The inspector shall have access to all apiaries. Any]~~ verify compliance with department-issued restrictions directed toward the prevention, mitigation or eradication of contagious diseases. Inspectors shall have access to all colonies and hives and shall consider environmental factors and their impact on colony health prior to an inspection. A person who [shall hinder, resist or impede] in any way hinders, resists or impedes an inspector in

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the discharge of [~~his~~] the inspector's duties [~~shall be~~] is in violation of the Bee Act.

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

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

"76-9-7. DISEASED COLONIES.--If an inspector finds a colony infected or infested with a contagious disease [~~in a colony, he~~] verified by a department-approved laboratory and in the opinion of the director, the contagious disease poses a health risk to other colonies, the department shall direct the beekeeper to destroy the diseased colony and infected or infested equipment or to treat the colony [~~according to a schedule approved by the department; providing the inspector shall, upon request by the beekeeper, obtain a sample of brood that is representative of the apiary as determined by the inspector for submission to an approved state or federal laboratory for verification of the disease]~~ and equipment to eradicate the contagious disease. All [~~diseased~~] colonies that are treated by a beekeeper shall be reinspected [~~by an inspector~~] within the period designated by the [~~board.~~ ~~The board may require the beekeeper to pay an amount set by the board not to exceed fifty dollars (\$50.00) for each inspection,~~

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~~excluding the initial annual inspection, required to certify that the colonies are apparently free of contagious disease]~~
department. Colonies that do not respond to treatment within a period specified by the [~~board following the initial inspection]~~ department shall be destroyed by the beekeeper or [~~an inspector]~~ the department at the expense of the beekeeper and in a manner approved by the department, and the contaminated equipment shall be disinfected or burned by the beekeeper or [~~an inspector]~~ the department."

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

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

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

"76-9-8. ABANDONED [~~COLONIES~~] HIVES.--Abandoned

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[colonies] hives infected or infested with contagious disease and contaminated equipment shall be destroyed under the supervision of the [~~inspector~~] department when the [colony] hive is found to be infected or infested with a contagious disease. Abandoned hives with live colonies or abandoned equipment that is apparently free of contagious disease may be sold in a manner designated by the [~~board~~] department or destroyed as specified by the [~~board~~] department."

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

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

A. No [colonies] bees or used bee-related equipment shall be moved into [~~the state~~] New Mexico unless accompanied by a certificate of inspection signed by an authorized apiary inspector of the state from which the bees and used bee-related equipment originated. The certificate of inspection shall state that the [colonies] bees and used bee-related equipment are apparently free of contagious disease and shall meet other requirements as designated by the board. The person in [~~this state~~] New Mexico receiving [colonies] bees or used bee-related equipment shall [~~file with the department a statement of the proposed location in the state where the colonies will be managed and a notice that the bees have arrived. The statement and notice shall be filed by the beekeeper in accordance with the regulations of the board. The department shall, as soon as~~

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~~practicable after arrival, inspect the colonies for contagious disease. The beekeeper shall pay the actual cost of the initial inspection and all subsequent inspections required because of the presence of any contagious disease.~~

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

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

SCONC→**C. The department may by rule impose additional rules on the establishment of apiaries in New Mexico by out-of-state beekeepers. Rules may include registration of apiary locations and prior approval of their location by the department prior to entry of hives into the state.**←SCONC

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

"76-9-12. FEES--DISPOSITION OF FUNDS.--Fees for

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SCONC→registration,←SCONC inspections, travel and document services shall be established by the board as provided in Section 76-1-2 NMSA 1978. All money collected [~~under the provisions of~~] pursuant to the Bee Act shall be expended only to administer and enforce the Bee Act."

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

"76-9-13. PENALTIES [~~BOND~~].--

~~[A. Any person who violates any provision of the Bee Act or any regulation adopted by the board pursuant thereto is guilty of a misdemeanor. Each day a person remains in violation shall constitute a separate offense.~~

~~B. The department shall not be required to give bond or security in any legal proceeding brought under the Bee Act which the department may institute or defend in any court of the state.]~~ A person who violates a provision of the Bee Act or a rule promulgated by the board in accordance with that act may be assessed an administrative penalty not to exceed five thousand dollars (\$5,000) for each violation as provided in Section 76-1-6 NMSA 1978."

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

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

A. "board" means the board of regents of New Mexico

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state university;

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

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

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

(1) contains important quantities of no more than one of the primary plant nutrients: nitrogen (N), phosphate (P_2O_5) and potash (K_2O);

(2) has eighty-five percent of its plant nutrient content present in the form of a single chemical compound; or

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

E. "specialty fertilizer" means a fertilizer distributed primarily for nonfarm use such as home gardens,

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lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries and may include fertilizers used for research or experimental purposes;

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

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

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

I. "grade" means the percentages of total nitrogen, available phosphorus or phosphate and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meal, manures and similar raw materials may be guaranteed in fractional units;

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

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

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

~~M. "person" includes individual, partnership,~~

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~~association, firm and corporation;~~

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

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

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

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

~~R. "soil conditioner" means a substance or mixture of substances intended for sale, offered for sale or sold for manurial, soil enriching or soil corrective purposes or intended to be used for promoting or stimulating the growth of plants, increasing the productivity of plants, improving the quality of crops or producing a chemical or physical change in the soil, except fertilizer as defined in this section, unmanipulated animal and vegetable manures and other products exempted by rules of the board;~~

S.] Q. "blender" means a person or system engaged

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in the business of blending fertilizer, including both mobile and fixed equipment used in blending;

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

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

(2) two or more fertilizer materials; or

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

[U.] S. "custom blend" means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet the specific consumer's request prior to blending;

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

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

~~X.]~~ V. "primary nutrient" means total nitrogen,

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available phosphate and soluble potash; and

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

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

"76-11-4. REGISTRATION.--

A. Each brand and grade of fertilizer and each [~~soil conditioner~~] product shall be registered before being distributed in the state. The application for registration shall be submitted to the department on a form furnished by the department and shall be accompanied by a label or other printed matter describing the fertilizer and a fee [~~of five dollars (\$5.00)~~] not to exceed twenty dollars (\$20.00) per brand or grade [~~except that those brands or grades sold in packages of five pounds or less shall be registered at a fee of fifteen dollars (\$15.00) each~~]. Upon approval by the department, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year.

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

C. A distributor shall not be required to register a fertilizer formulated according to specifications that are furnished by a consumer prior to mixing but shall be required

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to label the fertilizer as provided in Subsection C of Section 76-11-5 NMSA 1978."

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

"76-11-5. LABELING.--

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

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

(2) brand and grade;

(3) guaranteed analysis;

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

(5) directions for use for fertilizer

distributed to a consumer; and

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

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

C. A fertilizer formulated according to specifications that are furnished by a consumer prior to mixing

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shall be labeled to show the net weight, guaranteed analysis and the name and address of the distributor.

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

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

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

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

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

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

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

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

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

C. A person who distributes a fertilizer [~~or soil conditioner~~] in the state shall file with the department on forms furnished by the department a quarterly statement for the periods ending March 31, June 30, September 30 and December 31 setting forth the number of net tons of each fertilizer [~~or soil conditioner~~] distributed in the state during the quarter. The report is due on or before the last day of the month following the close of each quarter. The inspection fee shall be paid at the time of filing of the statement. If the tonnage report is not filed and the payment of inspection fee is not made within thirty days after the end of the quarter, a collection fee amounting to ten percent, but not less than ten

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dollars (\$10.00), of the amount shall be assessed against the registrant, and the amount of fees due constitutes a debt and becomes the basis of a judgment against the registrant.

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

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

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

A. The department shall sample, inspect, make analyses of and test fertilizers [~~and soil conditioners~~] distributed within the state at a time and place and to the extent necessary to determine whether the fertilizer [~~or soil conditioner~~] is in compliance with the New Mexico Fertilizer Act. The department may enter upon public or private premises or carriers during the regular business hours in order to have access to the fertilizer [~~or soil conditioners~~] and may examine records relating to the distribution of fertilizer [~~and soil conditioners~~] subject to the provisions of [~~the New Mexico Fertilizer~~] that act and [~~the~~] rules adopted [~~pursuant to~~] in accordance with that act.

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

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

D. Upon request, the department shall furnish to the registrant a portion of any sample found subject to penalty or other legal action. Official samples establishing a penalty for nutrient deficiency shall be retained for a minimum of ninety days from issuance of a deficiency report."

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

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

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

B. it is distributed under the name of another

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fertilizer [~~or soil conditioner~~] product;

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

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

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

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

A. submitting a quarterly summary report [~~approved~~

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~~by the department]~~ on forms furnished by the department for the periods ending March 31, June 30, September 30 and December 31, on or before the [fifteenth day of each month covering shipments made during the preceding month] last day of the month following the close of each quarter; or

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

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

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

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

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

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

"76-11-13. RULES.--For the enforcement of the New Mexico Fertilizer Act, the board may prescribe and, after public hearing following due public notice, ~~[adopt]~~ promulgate the

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rules relating to the distribution of fertilizers [~~and soil conditioners that it may find~~] necessary to carry into effect the full intent and meaning of the New Mexico Fertilizer Act. [~~Under this section~~] The board may promulgate rules for the storing, hauling and handling of anhydrous ammonia and other gaseous or liquid fertilizers [~~and they shall have the same effect as law~~]."

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

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

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

"76-11-15. CANCELLATION OF REGISTRATIONS.--The department may cancel the registration of any brand of fertilizer [~~or soil conditioner~~] or refuse to register any brand of fertilizer [~~or soil conditioner~~] upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of the New Mexico Fertilizer Act or any rules

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promulgated ~~[under]~~ in accordance with that act; provided that no registration shall be revoked or refused until the registrant is given an opportunity to appear for a hearing by the department."

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

"76-11-16. STOP SALE ORDERS.--The department may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of fertilizer ~~[or soil conditioner]~~ and to be held at a designated place when the department finds the fertilizer ~~[or soil conditioner]~~ is being offered or exposed for sale in violation of any of the provisions of the New Mexico Fertilizer Act until the law has been complied with and the fertilizer ~~[or soil conditioner]~~ is released in writing by the department or the violation has been otherwise legally disposed of by written authority. The department shall release the fertilizer ~~[or soil conditioner]~~ so withdrawn when the requirements of the provisions of ~~[the New Mexico Fertilizer]~~ that act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid."

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

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

A. Any lot of fertilizer ~~[or soil conditioner]~~ not

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in compliance with the provisions of the New Mexico Fertilizer Act is subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the fertilizer [~~or soil conditioner~~] is located.

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

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

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

"76-11-18. VIOLATIONS.--[A.] If it appears from the examination of a fertilizer [~~or soil conditioner~~] that any of the provisions of the New Mexico Fertilizer Act or the rules [~~issued pursuant to~~] promulgated in accordance with that act have been violated, the department [~~shall cause notice of the violations to be given to the registrant, distributor or~~

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~~possessor from whom the sample was taken; a person notified shall be given opportunity to be heard under the rules prescribed by the board. If it appears after the hearing, either in the presence or the absence of the person notified, that any of the provisions of the New Mexico Fertilizer Act or rules issued pursuant to that act have been violated, the department may certify the facts to the proper district attorney.~~

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

~~C. Nothing in the New Mexico Fertilizer Act shall require the department or its representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the New Mexico Fertilizer Act when it believes that the public interests will be best served by a suitable notice of warning in writing.~~

~~D. The department may apply for and the court may grant a temporary or permanent injunction restraining a person from violating or continuing to violate any of the provisions of the New Mexico Fertilizer Act or any rule promulgated pursuant to that act, notwithstanding the existence of other remedies at law. The injunction shall be issued without bond] may assess an administrative penalty not to exceed five thousand dollars (\$5,000) for each violation and the department~~

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may suspend, revoke or refuse to renew the person's registration as provided in Section 76-1-6 NMSA 1978."

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

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

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

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

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

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

A. "accumulator" means a person engaged in the

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purchasing and possessing of in-shell pecans with the intent of selling them to another buyer;

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

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

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

E. "cooperative" means a membership organization engaged in buying, accumulating or shelling in-shell pecans for the benefit of its members;

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

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

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

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

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

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

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

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

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

by another country and recognized by the United States."

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

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

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

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of the Pecan Buyers Licensure Act.

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

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

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

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

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

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

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

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

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REGISTRATIONS.--

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

B. Fees collected shall not exceed the costs of inspection, sampling and analysis and other expenses necessary for the administration of the New Mexico Commercial Feed Act. Fees collected shall constitute a fund for the payment of the costs of inspection, sampling and analysis and other expenses necessary for the administration of that act.

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

(1) file, not later than the last day of January, April, July and October of each year, a quarterly statement setting forth the number of net tons of commercial feeds distributed in New Mexico during the preceding calendar

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quarter and, upon filing the statement, shall pay the inspection fee. When more than one person is involved in the distribution of commercial feed, the person who distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee unless the report and payment have been made by a prior distributor of the feed; and

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

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

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

"76-19A-15. [NEW MATERIAL] PENALTIES.--The department .229578.4SAAIC February 17, 2025 (1:33pm)

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may assess an administrative penalty not to exceed five thousand dollars (\$5,000) for each violation of the Commercial Feed Act or rules promulgated in accordance with that act."

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

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

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

"25-6-9. EGG INSPECTION FEE.--The department's administrative and enforcement duties pursuant to the Egg Grading Act shall be financed in part by the collection of a fee on all eggs sold to the retailer or consumer. The board ~~[shall have authority to]~~ may establish the fee at ~~[their]~~ the board's discretion, but in no case shall the fee exceed ~~[one-half cent]~~ ten cents (\$.10) per dozen. The fee shall be paid by the egg dealer or producer who packages the eggs for sale to the retailer or consumer. All money collected under the provisions of the Egg Grading Act shall be deposited with ~~[the]~~ New Mexico state university ~~[for the purposes of administering]~~ to administer the provisions of that act and ~~[promoting]~~ promote the poultry industry and its products and shall be expended upon the order of the board in the same manner as other funds of ~~[the]~~ New Mexico state university."

SECTION 54. Section 25-6-12 NMSA 1978 (being Laws 1963,

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Chapter 138, Section 12, as amended) is amended to read:

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

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

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

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

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

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

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

and

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

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

F. All licenses shall be conspicuously posted in the place of business to which they apply. The license is subject to revocation by the inspectors for cause. [~~All licenses issued prior to the effective date of the Egg Grading~~

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~~Act shall expire when the act becomes effective and thereafter]~~
All licenses are renewable annually on July 1 ~~[of each year]~~
and shall expire on June 30 of the succeeding year."

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

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

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

B. In addition to all other fees prescribed by the Egg Grading Act, a penalty fee of ten percent shall be added for delinquent filing of any report or the delinquent paying of any inspection fee, and, if the report and payment are not made within ten days of notification of delinquency, the penalty shall be twenty-five percent of the inspection fee. Persons filing a false report shall be penalized fifty percent of the amount due for inspection fees."

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

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

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

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

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

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

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

D. "correct" means the condition of an apparatus that by reason of its construction and adjustment will give accurate readings or indications of weight and quantity;

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

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

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

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

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

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

K. "secondary standards" means the physical standards that are traceable to the primary standards through comparisons or by using acceptable laboratory procedures and that are used in the enforcement of laws and rules relating to weights and measures;

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

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

~~E. "correct" means the condition of apparatus which by reason of its construction and adjustment will give accurate~~

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~~readings or indications of weight and quantity;~~

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

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

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

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

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

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

~~[I. "sale from bulk" means the sale of commodities~~

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~~when the quantity is determined at the time of sale;~~

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

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

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

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

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

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

"57-17-2. SYSTEMS OF WEIGHTS AND MEASURES.--The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized and either one or both of these systems shall be used for all commercial purposes in [~~the state~~] New Mexico. The definitions of basic units of weights and [~~measure~~] measures, the tables of [~~weight~~] weights and [~~measure~~] measures and weights and measures equivalents as published by the national [~~bureau of standards~~] institute of standards and technology shall be used by the board in arriving at standards

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[which] that shall govern weighing and measuring equipment and transactions in [~~the state~~] New Mexico."

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

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

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

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

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

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and contingent expenses.

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

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

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

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

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

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

B. Without registration, a service establishment or service technician is not allowed to place a commercial weighing or measuring device into commercial service or to

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remove official stickers or tags. Only commercial weighing or measuring devices placed in service by a registered service technician or by the department are legal for commercial use in New Mexico.

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

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

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

SECTION 62. Section 57-17-6 NMSA 1978 (being Laws 1959,

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Chapter 202, Section 6, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

H. weigh, measure and inspect from time to time packages and amounts of goods and commodities offered for sale, sold or in the process of delivery to determine whether the weight, measure or quantity of the good or commodity is the same as that represented by the terms of the offer or sale."

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

"57-17-8. POWERS OF THE [~~DIRECTOR--POLICE POWERS~~] DEPARTMENT--RIGHT OF ENTRY AND STOPPAGE.--To facilitate the performance of [~~his~~] the department's duties and the enforcement of the provisions of [~~this~~] the Weights and Measures Act and the [~~regulations~~] rules promulgated

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[~~hereunder~~] pursuant to that act, the [~~director~~] department, in the performance of [~~his~~] its duties, is empowered to:

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

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

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

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

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

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

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

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

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

"57-17-10. DUTY OF OWNER OF INCORRECT APPARATUS.--An owner or user of apparatus [~~of weight or measure~~] recommended for repair shall cause the apparatus to be made correct within a reasonable period specified by the director or an inspector. Except, at the election of the owner or user, the apparatus may be disposed of in a manner specifically authorized by the director. An apparatus of weight or measure [~~which~~] that has been recommended for repair shall not be used again for a commercial purpose until it has been made correct and found to be correct by the director or an inspector unless otherwise provided for by [~~regulation~~] rule."

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

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

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

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

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

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

B. In addition to the declarations required by this
section, any package being one of a lot containing random
weights of the same commodity and bearing the total selling
price of the package shall bear on the outside of the package a
plain and conspicuous declaration of the price per single unit
of weight."

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

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

A. The following fees shall be collected by the
department and shall accompany the application for registration

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or renewal of registration:

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

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

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

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

C. Instead of or in addition to criminal penalties provided for in the Weights and Measures Act, the department may assess administrative penalties for violations of that act or rules promulgated in accordance with that act. A fine shall not exceed five thousand dollars (\$5,000) per violation and shall be assessed as provided in Section 76-1-6 NMSA 1978."

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

"57-17-18. [NEW MATERIAL] OFFENSES AND PENALTIES-- WILLFUL AND REPEAT OFFENSES.--A person who, alone or through an employee, agent or other person, willfully and knowingly or repeatedly performs any of the acts specified in this section

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is guilty of a misdemeanor and upon conviction shall be punished by a fine of not to exceed ten thousand dollars (\$10,000) or by imprisonment in the county jail for not more than one year, or both:

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

B. use or have in the person's possession for current use in the buying or selling of any commodity or good or for hire or award; in the computation of a basic charge or payment for services rendered on the basis of weight or measurement; in the determination of weight or measurement when a charge is made for such determination; or a weight or measure that has not been sealed within the next preceding year by the director or an inspector unless written notice has been given to the director to the effect that the weight or measure is available for examination or is due for reexamination, as the case may be and unless specific written permission to use the weight or measure has been received from the office of the director;

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

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

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

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

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

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

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

"57-17-19. INSPECTION FEES.--The board may establish fees to recover the cost of performing services of inspection, testing or calibrating weights, measures and commercial weighing and measuring devices when such services are requested by the person owning or using the weight, measure or device.

All fees shall be placed in an account with the business office

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of New Mexico state university to be used for the enforcement of ~~[Chapter 76 NMSA 1953]~~ the Weights and Measures Act and the Weighmaster Act."

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

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

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

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

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

"57-18-2. DEFINITIONS.--As used in the Weighmaster Act:

~~A. "weighmaster" means a natural person licensed under the provisions of the Weighmaster Act;~~

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

~~C. "director" means the director of the state department of agriculture;~~

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

B. "department" means the New Mexico department of

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agriculture;

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

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

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

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

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

[G-] H. "weight certificate" means a document in the form of a certificate consecutively numbered and indicating the weight in accordance with the standards of weights and measures set forth in [Sections 76-1-28 through 76-1-54 NMSA 1953] the Weights and Measures Act."

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

"57-18-7. [NEW MATERIAL] LICENSE FEES.--The board may promulgate rules to provide for the collection of license fees; provided that license fees shall not exceed three hundred

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dollars (\$300) for each weighmaster and one hundred dollars (\$100) for each deputy weighmaster. If a complete application for renewal of a license is not filed prior to the expiration of the current license, the department may charge a late fee not to exceed one hundred dollars (\$100), which charge is in addition to the annual license fee. Money collected pursuant to the Weighmaster Act shall be deposited with New Mexico state university to administer that act."

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

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

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

"[NEW MATERIAL] ADMINISTRATIVE PENALTIES.--The department may assess an administrative penalty not to exceed five thousand dollars (\$5,000) for each violation of the Weighmaster Act or rules promulgated in accordance with that act and may suspend, revoke or refuse to renew a license. Penalties shall

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be assessed as provided in Section 76-1-6 NMSA 1978."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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NMSA 1978 is enacted to read:

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

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

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

C. Prior to installing, servicing, repairing or reconditioning a commercial weighing or measuring device in this state, each service establishment and each service technician shall be registered with the department on a form furnished by the department. The application shall be accompanied by the applicable registration fee.

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

E. The director may suspend or revoke the registration of a service establishment or service technician

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on satisfactory evidence that the registrant has violated a provision of the Petroleum Products Standards Act or rules promulgated in accordance with that act. The department may assess an administrative penalty not to exceed five thousand dollars (\$5,000) for each violation of the Petroleum Products Standards Act or rules promulgated in accordance with that act. Penalties shall be assessed as provided in Section 76-1-6 NMSA 1978."

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

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

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

(1) annual service establishment registration, not to exceed three hundred dollars (\$300);

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

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

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

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

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

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

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

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

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

B. The department may assess an administrative penalty not to exceed five thousand dollars (\$5,000) for each violation of the Petroleum Products Standards Act or rules promulgated in accordance with that act. Penalties shall be assessed as provided in Section 76-1-6 NMSA 1978."

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

SECTION 82. REPEAL.--

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

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repealed.

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

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

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

E. Sections 76-9-6 SCONC→,←SCONC SCONC→and←SCONC 76-9-9 SCONC→and 76-9-10←SCONC NMSA 1978 (being Laws 1975, Chapter 122, Sections 6 SCONC→,←SCONC SCONC→and←SCONC 9 SCONC→and 10←SCONC) are repealed.

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