

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 214

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

AN ACT

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

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

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

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

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

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

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

24 C. In addition to other remedies at law, the New
25 Mexico department of agriculture may apply for and the court

1 may grant a temporary or permanent injunction restraining a
 2 person from violating or continuing to violate any of the
 3 provisions of acts and rules promulgated in accordance with
 4 those acts for which the department has administrative and
 5 enforcement powers and duties. The injunction shall be issued
 6 without bond.

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

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

13 "76-4-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article 4
 14 NMSA 1978 may be cited as the "Pesticide Control Act"."

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

17 "76-4-6. REGISTRATION.--

18 A. Each pesticide or device that is distributed
 19 within the state or delivered for transportation or transported
 20 in intrastate commerce or between points within this state
 21 through any point outside this state shall be registered with
 22 the department subject to the provisions of the Pesticide
 23 Control Act. However, the registration is not required if a
 24 pesticide is shipped from one plant or warehouse to another
 25 plant or warehouse operated by the same person and used solely

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1 at [~~such~~] that plant or warehouse as a constituent part to make
2 a pesticide [~~which~~] that is registered under the provisions of
3 the Pesticide Control Act.

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

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

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

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

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

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

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

25 D. The department may require a full description of

1 the tests made and the results [~~thereof~~] upon which the claims
 2 are based on any pesticide or device or on any pesticide or
 3 device on which restrictions are being considered. In the case
 4 of renewal of registration, the applicant shall be required to
 5 furnish only information [~~which~~] that is different from that
 6 furnished when the pesticide was registered or reregistered
 7 during the previous license year.

8 E. The board may prescribe other necessary
 9 information by [~~regulation~~] rule.

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

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

22 H. If it appears to the department that the
 23 composition of the pesticide warrants the proposed claims for
 24 it and if the pesticide or device and its labeling and other
 25 material submitted comply with the requirements of the

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1 Pesticide Control Act, the department shall register the
2 pesticide or device.

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

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

9 "76-4-20. PRIVATE APPLICATORS.--

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

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

21 (1) the applicant shall acknowledge that [~~he~~]
22 the applicant understands and will abide by the label
23 precautions by signing a dealer's pesticide register. The
24 register shall include the name and address of the private
25 applicator and other information as prescribed by the

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1 department. The dealer shall keep a record of all restricted
2 use pesticides distributed to a private applicator;

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

14 (3) the applicant shall be required to pass a
15 written examination demonstrating [~~his competency~~] competency
16 with respect to the use and handling of the pesticide or
17 pesticides covered by [~~his~~] certification prior to purchase and
18 use of the product. Examination material shall address all
19 elements stated in category-specific standards of competence in
20 Sections 171.105, 171.303(a)(1), 171.303(a)(3) and
21 171.303(b)(3)(ii)-(iv) of the Code of Federal Regulations; and

22 (4) the applicant shall be required to obtain
23 approval from the department for each application involving a
24 specific risk to the environment. The applicant shall submit
25 to the department an application form for a special review

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1 permit. The application shall include detailed information on
2 the intended use, the responsible person in charge and the
3 equipment and conditions under which the pesticide application
4 is to be made. The department in reviewing the application for
5 a special review permit may require additional restrictions
6 such as on-site inspection or supervision.

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

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

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

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

16 "76-4-22. FEES.--

17 A. Fees for the registration of pesticides, the
18 various licenses, inspection of apparatuses and examination of
19 applicants required by the Pesticide Control Act shall be set
20 by the board [~~not to exceed~~] in the [~~amount~~] amounts authorized
21 below:

- 22 (1) initial application or annual
- 23 [~~registration~~] renewal fee for each pesticide or device
- 24 [~~registered not more than~~]. [~~\$150~~] \$170
- 25 and beginning July 1, 2030. \$220;

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1 (2) annual pesticide dealer license for each
2 location or outlet within the state or, if there is no outlet
3 in the state, for the principal out-of-state location or outlet
4 [~~not more than~~] [\$100] \$125
5 and beginning July 1, 2030. \$150;

6 (3) annual pest management consultant license
7 [~~not more than~~] [\$100] \$125
8 and beginning July 1, 2030. \$150;

9 (4) annual commercial pesticide applicator
10 license [~~not more than~~] [\$100] \$125
11 and beginning July 1, 2030. \$150;

12 (5) annual operator license [~~not more~~
13 ~~than~~] [\$75.00] \$90.00
14 and beginning July 1, 2030. \$110;

15 (6) annual noncommercial applicator license
16 [~~not more than~~] [\$100] \$125
17 and beginning July 1, 2030. \$150;

18 (7) private applicator certification or
19 renewal [~~not more than~~] [\$25.00] \$30.00
20 and beginning July 1, 2030. \$35.00;

21 (8) additional inspection required to certify
22 each unit of aircraft, ground or manual equipment that fails to
23 pass inspection [~~not more than~~] [\$25.00] \$30.00
24 and beginning July 1, 2030. \$35.00; and

25 (9) examination fee for each examination

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1 needed to qualify the applicant as a pest management
2 consultant, commercial pesticide applicator, noncommercial
3 applicator or operator or any combination thereof [~~not more~~
4 ~~than~~] [~~\$20.00~~] \$25.00
5 and beginning July 1, 2030. \$30.00.

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

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

22 "76-4-23. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF
23 LICENSE, PERMIT OR CERTIFICATION--ACTS CONSTITUTING A VIOLATION
24 OF THE PESTICIDE CONTROL ACT.--

25 A. The department may deny application for any

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1 license, permit or certification or may suspend or revoke any
2 license, permit or certification when it has reason to believe
3 that the applicant for or the holder of such license, permit or
4 certification has violated any of the provisions of Subsection
5 B of this section.

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

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

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

13 (3) apply known ineffective or improper
14 materials;

15 (4) operate faulty or unsafe apparatus;

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

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

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

25 (8) make false or fraudulent records, invoices

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1 or reports;

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

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

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

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

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

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

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

24 (16) use or supervise the use of a pesticide
25 [~~which~~] that is restricted to use by certified applicators when

1 not qualified as a certified applicator; or

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

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

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

13 "76-4-34. [NEW MATERIAL] PENALTIES--NOTICE OF
14 VIOLATION.--The department may assess an administrative penalty
15 not to exceed five thousand dollars (\$5,000) for each violation
16 of the Pesticide Control Act or rules promulgated in accordance
17 with that act and may suspend, revoke or deny renewal of a
18 license. The penalty shall be assessed as provided in Section
19 76-1-6 NMSA 1978."

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

22 "76-4-38. COOPERATION.--The department may cooperate,
23 receive grants-in-aid and enter into cooperative agreements
24 with any agency of the federal government, of this state or its
25 subdivisions or with any agency of another state in order to:

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

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

4 H. regulate pesticide applicators and operators."

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

7 "76-4-39. DISPOSITION OF FUNDS.--~~[All moneys]~~ Money from
8 fees or other sources except for administrative penalties
9 received by the department under the provisions of the
10 Pesticide Control Act shall be expended for the purpose of
11 carrying out the provisions of the Pesticide Control Act."

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

14 "76-5-12. DEFINITIONS.--As used in the Plant Protection
15 Act:

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

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

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

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

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

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

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

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

24 I. "collected plants" means those plants dug or
25 gathered from any location in which plants are found growing

1 wild;

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

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

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

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

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

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

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

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

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

25 S. "florist" means a person who buys and resells

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1 florist stock and whose primary sales comprise more than
2 seventy-five percent cut flowers;

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

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

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

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

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

23 "76-5-15. INSPECTION OF NURSERIES.--The department is
24 authorized to inspect all nurseries in the state, [~~and~~] all
25 nursery stock grown within the state, all nursery stock

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

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

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

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

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

23 "76-5-19. LABELS.--All nursery stock and collected plants
24 sold, handled, installed or [~~trafficked~~] off-loaded in the
25 state shall be securely and correctly labeled [~~either as to~~]

1 with common [~~or~~] and botanical names based on a current and
 2 recognized industry reference. All labels shall indicate the
 3 origin and nursery of production."

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

7 "76-5-20. [NEW MATERIAL] PEST-FREE NURSERY AND FLORIST
 8 STOCK.--Only pest-free nursery stock shall be offered for sale
 9 or sold. The offering for sale or sale of nursery stock
 10 infested or infected with a plant pest is a violation of the
 11 Plant Protection Act."

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

14 "76-5-21. COLLECTED PLANTS.--All persons collecting
 15 plants for sale [~~must~~] shall file with the department an
 16 application for a collected plants [~~permit~~] license. The board
 17 may adopt [~~regulations~~] rules relative to collected plants."

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

20 "76-5-25. POWERS OF BOARD AND DEPARTMENT.--The department
 21 shall enforce the provisions of the Plant Protection Act. The
 22 board shall adopt and promulgate such rules as may be necessary
 23 for its administration and enforcement, including defining
 24 license year. The board may adopt sets of standards and grades
 25 for nursery stock and [~~if it so desires~~] florist stock and

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1 adopt those standards and grades recommended by an industry-
2 recognized reference, [tø] take any action necessary to ensure
3 that all nursery stock sold in the state meets the standards
4 and grades established and [tø] stop sales of any substandard
5 stock."

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

8 "76-5-26. FEES.--

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

13 ~~(1) annual inspection fee of nursery and~~
14 ~~nursery stock, seventy-five dollars (\$75.00), plus two dollars~~
15 ~~(\$2.00) per acre of nursery stock inspected;~~

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

18 ~~(3) annual nursery or florist dealer's,~~
19 ~~landscaper's or agent's license fee, seventy-five dollars~~
20 ~~(\$75.00);~~

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

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

1 (1) annual nursery stock producer license, one
2 hundred fifteen dollars (\$115), plus three dollars (\$3.00) per
3 acre of nursery stock production area and beginning July 1,
4 2030, one hundred fifty dollars (\$150), plus four dollars
5 (\$4.00) per acre of nursery stock production area;

6 (2) annual vegetable plant producer license
7 for a person growing only vegetable plants, forty dollars
8 (\$40.00) and beginning July 1, 2030, fifty dollars (\$50.00);

9 (3) annual nursery dealer, landscaper or agent
10 license, one hundred fifteen dollars (\$115) and beginning July
11 1, 2030, one hundred fifty dollars (\$150);

12 (4) annual florist license, one hundred
13 fifteen dollars (\$115) and beginning July 1, 2030, one hundred
14 fifty dollars (\$150);

15 (5) annual collected plant license, one
16 hundred fifteen dollars (\$115) and beginning July 1, 2030, one
17 hundred fifty dollars (\$150);

18 (6) annual vegetable plant dealer license for
19 persons who only sell or distribute vegetable plants, forty
20 dollars (\$40.00) and beginning July 1, 2030, fifty dollars
21 (\$50.00);

22 (7) annual cactus dealer license for persons
23 who only sell or distribute cacti and other succulents, forty
24 dollars (\$40.00) and beginning July 1, 2030, fifty dollars
25 (\$50.00); and

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1 (8) annual farmer's market license, one
2 hundred fifteen dollars (\$115) and beginning July 1, 2030, one
3 hundred fifty dollars (\$150).

4 B. If the complete application and applicable fees
5 for renewal of [~~any~~] an annual license [~~permit or certificate~~]
6 provided for in the Plant Protection Act [~~is~~] are not filed
7 prior to the expiration of the prior license [~~permit or~~
8 ~~certificate~~], the fee for [~~such~~] the license [~~permit or~~
9 ~~certificate~~] shall be double the amount specified in this
10 section; provided, however, that this double fee shall not
11 apply if the applicant has not engaged in business subsequent
12 to the expiration of [~~his~~] the prior license [~~permit or~~
13 ~~certificate~~] and furnishes an affidavit certifying to that
14 fact.

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

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

19 "76-5-27. FEES COLLECTED.--

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

25 B. Administrative penalties shall be deposited in

1 the state treasury to the credit of the current school fund as
 2 provided in Article 12, Section 4 of the constitution of New
 3 Mexico."

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

7 "76-5-28. [NEW MATERIAL] PENALTIES.--The department may
 8 assess an administrative penalty not to exceed five thousand
 9 dollars (\$5,000) for each violation of the Plant Protection Act
 10 or rules promulgated in accordance with that act and may
 11 suspend, revoke or refuse to renew a license. Penalties shall
 12 be assessed as provided in Section 76-1-6 NMSA 1978."

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

15 "76-9-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article 9
 16 NMSA 1978 may be cited as the "Bee Act"."

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

19 "76-9-2. DEFINITIONS.--As used in the Bee Act:

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

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

25 C. "bee" means all ~~[races of the honeybee, Apis~~

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1 ~~mellifera L., and other species of the genus Apis that are~~
2 ~~capable of being managed for the production of honey, wax or~~
3 ~~pollen or that are capable of being managed to pollinate~~
4 plants] species of the superfamily Apoidea that are managed for
5 beneficial purposes, including pollination services or
6 production of wax and honey;

7 D. "beekeeper" means a person who owns, leases or
8 manages bees;

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

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

15 G. "commercial apiary" means a location where a
16 beekeeper is required to maintain the minimum number of
17 colonies designated by the board;

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

22 I. "department" means the New Mexico department of
23 agriculture;

24 J. "equipment" means [~~equipment~~] tools used in
25 managing bees, including [~~but not limited to~~] brood chambers,

1 surplus honey chambers, bottom boards, tops, frames, drawn
2 comb, queen excluders and feeders;

3 K. "hive" means a container made or prepared that
4 is used as a home by a colony of bees; and

5 L. "inspector" means a qualified person designated
6 by the department to enforce the provisions of the Bee Act and
7 ~~[regulations adopted by the board]~~ rules promulgated in
8 accordance with that act."

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

11 "76-9-3. POWERS AND DUTIES OF BOARD AND DEPARTMENT.--

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

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

24 C. The department has the authority to prohibit
25 ~~[the shipment or bringing into the state]~~ colonies or equipment

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1 capable of transmitting contagious disease from being shipped
2 or brought into New Mexico from any state, territory or foreign
3 country.

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

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

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

18 Subsequent inspections may be made by an inspector, as needed,
19 to locate and control contagious disease and ~~[regulate the~~
20 ~~location of any apiary. The inspector shall have access to all~~
21 ~~apiaries. Any]~~ verify compliance with department-issued
22 restrictions directed toward the prevention, mitigation or
23 eradication of contagious diseases. Inspectors shall have
24 access to all colonies and hives and shall consider
25 environmental factors and their impact on colony health prior

1 to an inspection. A person who [~~shall hinder, resist or~~
 2 ~~impede~~] in any way hinders, resists or impedes an inspector in
 3 the discharge of [~~his~~] the inspector's duties [~~shall be~~] is in
 4 violation of the Bee Act.

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

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

11 "76-9-7. DISEASED COLONIES.--If an inspector finds a
 12 colony infected or infested with a contagious disease [~~in a~~
 13 ~~colony, he~~] verified by a department-approved laboratory and
 14 the contagious disease poses a health risk to other colonies,
 15 the department shall direct the beekeeper to destroy the
 16 diseased colony and infected or infested equipment or to treat
 17 the colony [~~according to a schedule approved by the department;~~
 18 ~~providing the inspector shall, upon request by the beekeeper,~~
 19 ~~obtain a sample of brood that is representative of the apiary~~
 20 ~~as determined by the inspector for submission to an approved~~
 21 ~~state or federal laboratory for verification of the disease]~~
 22 and equipment to eradicate the contagious disease. All
 23 [~~diseased~~] colonies that are treated by a beekeeper shall be
 24 reinspected [~~by an inspector~~] within the period designated by
 25 the [~~board. The board may require the beekeeper to pay an~~

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1 ~~amount set by the board not to exceed fifty dollars (\$50.00)~~
2 ~~for each inspection, excluding the initial annual inspection,~~
3 ~~required to certify that the colonies are apparently free of~~
4 ~~contagious disease] department. Colonies that do not respond~~
5 ~~to treatment within a period specified by the [board following~~
6 ~~the initial inspection] department shall be destroyed by the~~
7 ~~beekeeper or [an inspector] the department at the expense of~~
8 ~~the beekeeper and in a manner approved by the department, and~~
9 ~~the contaminated equipment shall be disinfected or burned by~~
10 ~~the beekeeper or [an inspector] the department."~~

11 SECTION 26. A new section of the Bee Act, Section
12 76-9-7.1 NMSA 1978, is enacted to read:

13 "76-9-7.1. [NEW MATERIAL] HIVE OWNERSHIP
14 IDENTIFICATION--ABANDONMENT.--To aid the department and
15 landowners in contacting owners of hives, each apiary located
16 on property not owned by a beekeeper shall have posted on it
17 the beekeeper's contact information, including name, phone
18 number and other information required by rule. Contact
19 information shall be posted in a manner that is visible to the
20 landowner and inspector. The department shall consider hives
21 located in an apiary not in compliance with this section to be
22 abandoned only after the department attempts to identify
23 ownership of the hives as provided by rule."

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

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underscored material = new
~~[bracketed material] = delete~~

1 "76-9-8. ABANDONED ~~[COLONIES]~~ HIVES.--Abandoned
 2 ~~[colonies]~~ hives infected or infested with contagious disease
 3 and contaminated equipment shall be destroyed under the
 4 supervision of the ~~[inspector]~~ department when the ~~[colony]~~
 5 hive is found to be infected or infested with a contagious
 6 disease. Abandoned hives with live colonies or abandoned
 7 equipment that is apparently free of contagious disease may be
 8 sold in a manner designated by the ~~[board]~~ department or
 9 destroyed as specified by the ~~[board]~~ department."

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

12 "76-9-11. IMPORTATION OF BEES.--

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

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1 ~~the regulations of the board. The department shall, as soon as~~
2 ~~practicable after arrival, inspect the colonies for contagious~~
3 ~~disease. The beekeeper shall pay the actual cost of the~~
4 ~~initial inspection and all subsequent inspections required~~
5 ~~because of the presence of any contagious disease.~~

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

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

19 C. The board may impose additional rules on the
20 establishment of apiaries in New Mexico by out-of-state
21 beekeepers. Rules may include registration of apiary locations
22 and prior approval of their location by the department prior to
23 entry of hives into the state."

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

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

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

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

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

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

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

24 "76-11-3. DEFINITIONS.--As used in the New Mexico
 25 Fertilizer Act:

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1 A. "board" means the board of regents of New Mexico
2 state university;

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

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

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

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

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

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

25 E. "specialty fertilizer" means a fertilizer

1 distributed primarily for nonfarm use such as home gardens,
2 lawns, shrubbery, flowers, golf courses, municipal parks,
3 cemeteries, greenhouses and nurseries and may include
4 fertilizers used for research or experimental purposes;

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

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

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

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

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

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

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

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1 ~~[M. "person" includes individual, partnership,~~
2 ~~association, firm and corporation;~~

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

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

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

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

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

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1 ~~[S.]~~ R. "blender" means a person or system engaged
2 in the business of blending fertilizer, including both mobile
3 and fixed equipment used in blending;

4 ~~[T.]~~ S. "blending" means the physical mixing or
5 combining of fertilizer materials and filler materials as
6 provided in Paragraphs (1) through (3) of this subsection,
7 including mixing through the simultaneous or sequential
8 application of any of the combinations provided in this
9 subsection, to produce a uniform mixture:

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

12 (2) two or more fertilizer materials; or

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

15 ~~[U.]~~ T. "custom blend" means a fertilizer blended
16 according to specifications provided to a blender in a soil
17 test nutrient recommendation or to meet the specific consumer's
18 request prior to blending;

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

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

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1 ~~[X-]~~ W. "primary nutrient" means total nitrogen,
2 available phosphate and soluble potash; and

3 X. "derivation" means the source from which the
4 guaranteed nutrients are derived."

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

7 "76-11-4. REGISTRATION.--

8 A. Each brand and grade of fertilizer and each soil
9 conditioner product shall be registered before being
10 distributed in the state. The application for registration
11 shall be submitted to the department on a form furnished by the
12 department and shall be accompanied by a label or other printed
13 matter describing the fertilizer or soil conditioner and a fee
14 of [five dollars (\$5.00)] twenty dollars (\$20.00) per brand or
15 grade [except that those brands or grades sold in packages of
16 five pounds or less shall be registered at a fee of fifteen
17 dollars (\$15.00) each]. Upon approval by the department, a
18 copy of the registration shall be furnished to the applicant.
19 All registrations expire on December 31 of each year.

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

24 C. A distributor shall not be required to register
25 a fertilizer formulated according to specifications that are

1 furnished by a consumer prior to mixing but shall be required
2 to label the fertilizer as provided in Subsection C of Section
3 76-11-5 NMSA 1978."

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

6 "76-11-5. LABELING.--

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

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

13 (2) brand and grade;

14 (3) guaranteed analysis;

15 (4) name and address of the registrant; ~~and~~

16 (5) directions for use for fertilizer
17 distributed to a consumer; and

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

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

25 C. A fertilizer formulated according to

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1 specifications that are furnished by a consumer prior to mixing
2 shall be labeled to show the net weight, guaranteed analysis
3 and the name and address of the distributor.

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

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

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

11 (3) an accurate statement of composition and
12 purpose; and

13 (4) the name and address of the registrant."

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

16 "76-11-6. INSPECTION FEES.--

17 A. There shall be paid to the department for all
18 fertilizer and soil conditioner distributed in the state an
19 inspection fee set by the board at a rate [~~not to exceed~~
20 ~~thirty-five cents (\$.35)] of forty-five cents (\$.45) and
21 beginning July 1, 2030, fifty cents (\$.50) a ton with a minimum
22 inspection fee of five dollars (\$5.00) per quarterly reporting
23 period; provided that sales to manufacturers or exchanges
24 between them are exempted. Fees so collected shall be used for
25 the payment of the costs of inspection, sampling and analysis~~

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1 and other expenses necessary for the administration of the New
2 Mexico Fertilizer Act.

3 B. On individual packages of fertilizer or soil
4 conditioner containing five pounds or less, there shall be paid
5 ~~[in lieu of the annual registration fee of five dollars (\$5.00)~~
6 ~~per brand and grade of fertilizer and each soil conditioner~~
7 ~~product and the required inspection fee an annual registration~~
8 ~~fee and inspection fee of fifteen dollars (\$15.00). Where] an~~
9 annual inspection fee of twenty-five dollars (\$25.00) and
10 beginning July 1, 2030, thirty dollars (\$30.00). If a person
11 sells fertilizer or soil conditioner in packages of five pounds
12 or less and in packages over five pounds, the annual
13 registration and inspection fee ~~[of fifteen dollars (\$15.00)]~~
14 applies only to that portion sold in packages of five pounds or
15 less ~~[and that portion sold in packages over five pounds is~~
16 ~~subject to the inspection fee].~~

17 C. A person who distributes a fertilizer or soil
18 conditioner in the state shall file with the department on
19 forms furnished by the department a quarterly statement for the
20 periods ending March 31, June 30, September 30 and December 31
21 setting forth the number of net tons of each fertilizer or soil
22 conditioner distributed in the state during the quarter. The
23 report is due on or before the last day of the month following
24 the close of each quarter. The inspection fee shall be paid at
25 the time of filing of the statement. If the tonnage report is

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1 not filed and the payment of inspection fee is not made within
2 thirty days after the end of the quarter, a collection fee
3 amounting to ten percent, but not less than ten dollars
4 (\$10.00), of the amount shall be assessed against the
5 registrant, and the amount of fees due constitutes a debt and
6 becomes the basis of a judgment against the registrant.

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

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

16 "76-11-7. INSPECTION--SAMPLING--ANALYSIS.--

17 A. The department shall sample, inspect, make
18 analyses of and test fertilizers and soil conditioners
19 distributed within the state at a time and place and to the
20 extent necessary to determine whether the fertilizer or soil
21 conditioner is in compliance with the New Mexico Fertilizer
22 Act. The department may enter upon public or private premises
23 or carriers during the regular business hours in order to have
24 access to the fertilizer or soil conditioners and may examine
25 records relating to the distribution of fertilizer and soil

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1 conditioners subject to the provisions of [~~the New Mexico~~
 2 ~~Fertilizer~~] that act and [~~the~~] rules adopted [~~pursuant to~~] in
 3 accordance with that act.

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

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

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

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

23 "76-11-10. MISBRANDING.--A person shall not distribute
 24 misbranded fertilizer or soil conditioner. A fertilizer or
 25 soil conditioner is misbranded if:

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- 1 A. its labeling is false or misleading in any
2 particular;
3 B. it is distributed under the name of another
4 fertilizer or soil conditioner product;
5 C. it is not labeled as required in Section
6 76-11-5 NMSA 1978 and in accordance with rules [~~prescribed~~
7 ~~under~~] promulgated in accordance with the New Mexico Fertilizer
8 Act; or
9 D. it purports to be or is represented as a
10 fertilizer or soil conditioner or is represented as containing
11 a plant nutrient, fertilizer or soil conditioner unless such
12 plant nutrient, fertilizer or soil conditioner conforms to the
13 definition of identity, if any, prescribed by rule of the
14 board; in adopting such rules, the board shall give due regard
15 to commonly accepted definitions and official fertilizer terms
16 such as those issued by the association of American plant food
17 control officials."

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

20 "76-11-11. TONNAGE REPORTS.--The person transacting,
21 distributing or selling fertilizer or soil conditioner to a
22 nonregistrant shall mail the department a report showing the
23 county of the consignee, the amounts in tons of each grade of
24 fertilizer and each soil conditioner product and the form in
25 which the fertilizer or soil conditioner was distributed such

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1 as bags, liquid, bulk or other forms. This information shall
2 be reported by one of the following methods:

3 A. submitting a quarterly summary report [~~approved~~
4 ~~by the department~~] on forms furnished by the department for the
5 periods ending March 31, June 30, September 30 and December 31,
6 on or before the [~~fifteenth day of each month covering~~
7 ~~shipments made during the preceding month~~] last day of the
8 month following the close of each quarter; or

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

14 SECTION 38. Section 76-11-13 NMSA 1978 (being Laws 1963,
15 Chapter 184, Section 13, as amended) is amended to read:

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

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1 **SECTION 39.** Section 76-11-14 NMSA 1978 (being Laws 1963,
2 Chapter 184, Section 14, as amended) is amended to read:

3 "76-11-14. SHORT WEIGHT.--If a fertilizer or soil
4 conditioner in the possession of [~~the~~] a consumer is found by
5 the department to be short in weight or other measure
6 prescribed by the board, the registrant of the fertilizer or
7 soil conditioner shall, within thirty days after official
8 notice from the department, pay to the consumer a penalty equal
9 to four times the value of the actual shortage."

10 **SECTION 40.** Section 76-11-15 NMSA 1978 (being Laws 1963,
11 Chapter 184, Section 15, as amended) is amended to read:

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

22 **SECTION 41.** Section 76-11-16 NMSA 1978 (being Laws 1963,
23 Chapter 184, Section 16, as amended) is amended to read:

24 "76-11-16. STOP SALE ORDERS.--The department may issue
25 and enforce a written or printed "stop sale, use or removal"

1 order to the owner or custodian of any lot of fertilizer or
 2 soil conditioner and to be held at a designated place when the
 3 department finds the fertilizer or soil conditioner is being
 4 offered or exposed for sale in violation of any of the
 5 provisions of the New Mexico Fertilizer Act until the law has
 6 been complied with and the fertilizer or soil conditioner is
 7 released in writing by the department or the violation has been
 8 otherwise legally disposed of by written authority. The
 9 department shall release the fertilizer or soil conditioner so
 10 withdrawn when the requirements of the provisions of [~~the New~~
 11 ~~Mexico Fertilizer~~] that act have been complied with and all
 12 costs and expenses incurred in connection with the withdrawal
 13 have been paid."

14 SECTION 42. Section 76-11-18 NMSA 1978 (being Laws 1963,
 15 Chapter 184, Section 18, as amended) is amended to read:

16 "76-11-18. VIOLATIONS.--[A.] If [~~it appears from the~~
 17 ~~examination of a fertilizer or soil conditioner that~~] any of
 18 the provisions of the New Mexico Fertilizer Act or the rules
 19 [~~issued pursuant to~~] promulgated in accordance with that act
 20 have been violated, the department [~~shall cause notice of the~~
 21 ~~violations to be given to the registrant, distributor or~~
 22 ~~possessor from whom the sample was taken; a person notified~~
 23 ~~shall be given opportunity to be heard under the rules~~
 24 ~~prescribed by the board. If it appears after the hearing,~~
 25 ~~either in the presence or the absence of the person notified,~~

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1 ~~that any of the provisions of the New Mexico Fertilizer Act or~~
2 ~~rules issued pursuant to that act have been violated, the~~
3 ~~department may certify the facts to the proper district~~
4 ~~attorney.~~

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

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

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

24 **SECTION 43.** Section 60-16-1 NMSA 1978 (being Laws 2018,
25 Chapter 47, Section 1) is recompiled as Section 76-16A-1 NMSA

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1 1978 and is amended to read:

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

5 SECTION 44. Section 60-16-2 NMSA 1978 (being Laws 2018,
6 Chapter 47, Section 2) is recompiled as Section 76-16A-2 NMSA
7 1978 and is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (1) a driver's license;

25 (2) a military identification card; or

1 (3) a passport issued by the United States or
2 by another country and recognized by the United States."

3 SECTION 45. Section 60-16-7 NMSA 1978 (being Laws 2018,
4 Chapter 47, Section 7) is recompiled as Section 76-16A-7 NMSA
5 1978 and is amended to read:

6 "76-16A-7. VIOLATIONS--REVOCATION OF LICENSE--PENALTY.--

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

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

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

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

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

25 SECTION 46. Section 60-16-8 NMSA 1978 (being Laws 2018,

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1 Chapter 47, Section 8) is recompiled as Section 76-16A-8 NMSA
2 1978 and is amended to read:

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

8 SECTION 47. Section 76-19A-12 NMSA 1978 (being Laws
9 2013, Chapter 23, Section 12) is amended to read:

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

12 A. [~~An inspection fee shall be paid to the board~~
13 ~~for all commercial feeds distributed in New Mexico. The fee~~
14 ~~shall not exceed fifteen cents (\$.15)] There shall be paid to
15 the department for all commercial feed distributed in New
16 Mexico an inspection fee at a rate of twenty-five cents (\$.25)
17 and beginning July 1, 2030, thirty cents (\$.30) per ton, with a
18 minimum inspection fee of five dollars (\$5.00) per quarterly
19 report period or, for each brand of commercial feed distributed
20 in individual packages of ten pounds or less, a distributor
21 shall pay an annual inspection fee [~~not to exceed twenty-five~~
22 ~~dollars (\$25.00)] of thirty-five dollars (\$35.00) and beginning
23 July 1, 2030, forty dollars (\$40.00) and shall not pay the
24 tonnage fee on such packages of the brand so registered.~~~~

25 B. Fees collected shall not exceed the costs of

1 inspection, sampling and analysis and other expenses necessary
2 for the administration of the New Mexico Commercial Feed Act.
3 Fees collected shall constitute a fund for the payment of the
4 costs of inspection, sampling and analysis and other expenses
5 necessary for the administration of that act.

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

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

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

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1 inspection fees, and the inspection fees and the penalty shall
2 constitute a debt for which suit may be brought by the board.

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

8 SECTION 48. Section 76-19A-15 NMSA 1978 (being Laws
9 2013, Chapter 23, Section 15) is repealed and a new Section
10 76-19A-15 NMSA 1978 is enacted to read:

11 "76-19A-15. [NEW MATERIAL] PENALTIES.--The department
12 may assess an administrative penalty not to exceed five
13 thousand dollars (\$5,000) for each violation of the Commercial
14 Feed Act or rules promulgated in accordance with that act. The
15 penalty shall be assessed as provided in Section 76-1-6 NMSA
16 1978."

17 SECTION 49. Section 25-6-1 NMSA 1978 (being Laws 1963,
18 Chapter 138, Section 1) is amended to read:

19 "25-6-1. SHORT TITLE.--~~[This act]~~ Chapter 25, Article 6
20 NMSA 1978 may be cited as the "Egg Grading Act"."

21 SECTION 50. Section 25-6-9 NMSA 1978 (being Laws 1963,
22 Chapter 138, Section 9, as amended) is amended to read:

23 "25-6-9. EGG INSPECTION FEE.--The department's
24 administrative and enforcement duties pursuant to the Egg
25 Grading Act shall be financed in part by the collection of a

underscored material = new
[bracketed material] = delete

1 fee on all eggs sold to the retailer or consumer. [~~The board~~
 2 ~~shall have authority to establish the fee at their discretion,~~
 3 ~~but in no case shall the fee exceed one-half cent per dozen]~~
 4 The fee shall be fourteen cents (\$.14) per case and beginning
 5 July 1, 2030, sixteen cents (\$.16) per case. The fee shall be
 6 paid by the egg dealer or producer who packages the eggs for
 7 sale to the retailer or consumer. All money collected under
 8 the provisions of the Egg Grading Act shall be deposited with
 9 [~~the~~] New Mexico state university [~~for the purposes of~~
 10 ~~administering~~] to administer the provisions of that act and
 11 [~~promoting~~] promote the poultry industry and its products and
 12 shall be expended upon the order of the board in the same
 13 manner as other funds of [~~the~~] New Mexico state university."

14 SECTION 51. Section 25-6-12 NMSA 1978 (being Laws 1963,
 15 Chapter 138, Section 12, as amended) is amended to read:

16 "25-6-12. CERTIFICATION OF DEALERS.--

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

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

25 C. A large dealer's license is required of any

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1 person [~~firm or corporation who~~] that buys, sells or traffics
2 in [~~over~~] more than four hundred cases of eggs in any one week.

3 D. The annual fees for each type of dealer are:

4 (1) small dealer [~~\$10.00~~] \$15.00
5 and beginning July 1, 2030. \$20.00;

6 (2) medium dealer [~~\$25.00~~] \$37.00
7 and beginning July 1, 2030. \$50.00; and

8 (3) large dealer [~~\$50.00~~] \$75.00
9 and beginning July 1, 2030. \$100.

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

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

19 SECTION 52. Section 25-6-16 NMSA 1978 (being Laws 1963,
20 Chapter 138, Section 16) is repealed and a new Section 25-6-16
21 NMSA 1978 is enacted to read:

22 "25-6-16. [NEW MATERIAL] PENALTIES.--

23 A. The department may assess an administrative
24 penalty not to exceed five thousand dollars (\$5,000) for each
25 violation of the Egg Grading Act or rules promulgated in

underscored material = new
[bracketed material] = delete

1 accordance with that act and may suspend, revoke or refuse to
 2 renew a license. Penalties shall be assessed as provided in
 3 Section 76-1-6 NMSA 1978.

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

12 SECTION 53. Section 57-17-1 NMSA 1978 (being Laws 1959,
 13 Chapter 202, Section 1, as amended) is amended to read:

14 "57-17-1. DEFINITIONS.--As used in [~~this~~] the Weights
 15 and Measures Act:

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

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

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

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

25 C. "commercial weighing or measuring device" means

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1 a device used or employed commercially to establish the
2 quantity, weight, count or size of products involving a
3 monetary transaction or in computing a basic change or payment
4 for services rendered on the basis of weight or measure;

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

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

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

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

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

24 I. "primary standards" means the physical standards
25 of the state that serve as the legal reference from which all

1 other standards for weights and measures are derived;

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

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

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

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

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

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

21 ~~G. "in package form" means a good or commodity~~
22 ~~packaged or contained in advance of sale so as to constitute a~~
23 ~~unity quantity of the good or commodity; a good or commodity~~
24 ~~not contained, but upon which is marked a selling price based~~
25 ~~upon weight or measure, shall be construed to be in packaged~~

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1 ~~form; a shipping container containing goods or commodities in~~
2 ~~packaged form is excluded from this definition;]~~

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

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

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

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

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

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

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

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

24 **SECTION 54.** A new section of the Weights and Measures
25 Act, Section 57-17-1.1 NMSA 1978, is enacted to read:

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1 "57-17-1.1. [NEW MATERIAL] SHORT TITLE.--Chapter 57,
2 Article 17 NMSA 1978 may be cited as the "Weights and Measures
3 Act"."

4 **SECTION 55.** Section 57-17-2 NMSA 1978 (being Laws 1973,
5 Chapter 386, Section 2) is amended to read:

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

18 **SECTION 56.** Section 57-17-3 NMSA 1978 (being Laws 1973,
19 Chapter 386, Section 3) is amended to read:

20 "57-17-3. PHYSICAL STANDARDS.--Weights and measures that
21 are traceable to the United States prototype standards supplied
22 by the federal government or approved as being satisfactory by
23 the national [~~bureau~~] institute of standards and technology
24 shall be the state primary standards of weights and measures.
25 The state primary standards shall be maintained in such

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1 calibration as prescribed by the national [~~bureau~~] institute of
2 standards and technology. Secondary standards may be
3 prescribed by the director. Secondary standards shall be
4 verified upon their initial receipt and as often thereafter as
5 deemed necessary by the director."

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

8 "57-17-4. ENFORCEMENT AND ADMINISTRATION.--

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

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

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

25 (2) specifications and tolerances of

1 apparatus, weights and measures designed to eliminate from use
 2 apparatus the inaccuracy of which would facilitate the
 3 perpetration of fraud."

4 SECTION 58. Section 57-17-5 (being Laws 1959, Chapter
 5 202, Section 6, as amended) is repealed and a new Section
 6 57-17-5 NMSA 1978 is enacted to read:

7 "57-17-5. [NEW MATERIAL] REGISTRATION--FEES.--

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

13 B. Without registration, a service establishment or
 14 service technician is not allowed to place a commercial
 15 weighing or measuring device into commercial service or to
 16 remove official stickers or tags. Only commercial weighing or
 17 measuring devices placed in service by a registered service
 18 technician or by the department are legal for commercial use in
 19 New Mexico.

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

24 D. Each registration shall be issued for a period
 25 of one year. The effective date of registration shall be

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1 determined by rule. The registrant shall file a renewal
2 application with the department prior to the expiration date.
3 Renewal applications shall be in the form prescribed by rule.
4 A late fee shall be charged for failure to submit a complete
5 application for renewal of registration prior to the expiration
6 of the current registration.

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

15 SECTION 59. Section 57-17-6 NMSA 1978 (being Laws 1959,
16 Chapter 202, Section 6, as amended) is amended to read:

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

22 SECTION 60. Section 57-17-7 NMSA 1978 (being Laws 1959,
23 Chapter 202, Section 7, as amended) is amended to read:

24 "57-17-7. DUTIES OF [~~DIRECTOR~~] DEPARTMENT.--It [~~shall~~
25 ~~be~~] is the duty of the [~~director~~] department to:

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

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

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

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

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

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

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

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

25 (2) computing the basic charge or payment for

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1 services rendered on the basis of weight or measure; or

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

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

9 SECTION 61. Section 57-17-8 NMSA 1978 (being Laws 1959,
10 Chapter 202, Section 8, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

3 "57-17-10. DUTY OF OWNER OF INCORRECT APPARATUS.--An
4 owner or user of apparatus [~~of weight or measure~~] recommended
5 for repair shall cause the apparatus to be made correct within
6 a reasonable period specified by the director or an inspector.
7 Except, at the election of the owner or user, the apparatus may
8 be disposed of in a manner specifically authorized by the
9 director. An apparatus of weight or measure [~~which~~] that has
10 been recommended for repair shall not be used again for a
11 commercial purpose until it has been made correct and found to
12 be correct by the director or an inspector unless otherwise
13 provided for by [~~regulation~~] rule."

14 SECTION 63. Section 57-17-12 NMSA 1978 (being Laws 1959,
15 Chapter 202, Section 12, as amended) is amended to read:

16 "57-17-12. DECLARATIONS ON PACKAGES--DECLARATIONS OF
17 UNIT PRICE ON RANDOM PACKAGES.--

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

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

25 (2) the name and place of business of the

1 manufacturer, packer or distributor; and

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

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

11 SECTION 64. A new section of the Weights and Measures
12 Act is enacted to read:

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

14 A. The following fees shall be collected by the
15 department and shall accompany the application for registration
16 or renewal of registration:

17 (1) an annual registration fee for each
18 service establishment of one hundred fifty dollars (\$150) and
19 beginning July 1, 2030, two hundred dollars (\$200);

20 (2) an annual registration fee for a service
21 technician of fifty dollars (\$50.00) and beginning July 1,
22 2030, seventy-five dollars (\$75.00); and

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

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

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

9 **SECTION 65.** Section 57-17-19 NMSA 1978 (being Laws 1973,
10 Chapter 386, Section 18) is amended to read:

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

20 **SECTION 66.** Section 57-17-20 NMSA 1978 (being Laws 2021,
21 Chapter 98, Section 8) is amended to read:

22 "57-17-20. HOMEMADE FOOD ITEMS--EXEMPTION.--The
23 provisions of [~~Chapter 57, Article 17 NMSA 1978~~] the Weights
24 and Measures Act shall not apply to homemade food items
25 produced or sold pursuant to the Homemade Food Act."

1 SECTION 67. Section 57-18-1 NMSA 1978 (being Laws 1973,
2 Chapter 236, Section 1) is amended to read:

3 "57-18-1. SHORT TITLE.--~~[This act]~~ Chapter 57, Article
4 18 NMSA 1978 may be cited as the "Weighmaster Act"."

5 SECTION 68. Section 57-18-2 NMSA 1978 (being Laws 1973,
6 Chapter 236, Section 2, as amended) is amended to read:

7 "57-18-2. DEFINITIONS.--As used in the Weighmaster Act:

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

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

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

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

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

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

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

25 ~~[F.]~~ E. "third-party weighing" means public

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1 weighing; [~~and~~]

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

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

6 [~~G.~~] H. "weight certificate" means a document in
7 the form of a certificate consecutively numbered and indicating
8 the weight in accordance with the standards of weights and
9 measures set forth in [~~Sections 76-1-28 through 76-1-54 NMSA~~
10 ~~1953~~] the Weights and Measures Act."

11 **SECTION 69.** Section 57-18-7 NMSA 1978 (being Laws 1973,
12 Chapter 236, Section 7) is repealed and a new Section 57-18-7
13 NMSA 1978 is enacted to read:

14 "57-18-7. [NEW MATERIAL] LICENSE FEES.--The department
15 shall collect license fees for licenses issued pursuant to the
16 Weighmaster Act. For each weighmaster, the fee is one hundred
17 fifty dollars (\$150) and beginning July 1, 2030, the fee is two
18 hundred dollars (\$200); and for each deputy weighmaster, the
19 fee is fifty dollars (\$50.00) and beginning July 1, 2030, the
20 fee is seventy-five dollars (\$75.00). If a complete
21 application for renewal of a license is not filed prior to the
22 expiration of the current license, the department may charge a
23 late fee not to exceed one hundred dollars (\$100), which charge
24 is in addition to the annual license fee. Money collected
25 pursuant to the Weighmaster Act shall be deposited with New

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1 Mexico state university to administer that act."

2 SECTION 70. Section 57-18-11 NMSA 1978 (being Laws 1973,
3 Chapter 236, Section 11) is amended to read:

4 "57-18-11. DEPUTY WEIGHMASTER.--~~[Except for the surety~~
5 ~~bond requirement provided in Section 8 of the Weighmaster Act]~~
6 The duties, qualifications and responsibilities of the deputy
7 weighmaster shall be the same as those of the weighmaster
8 provided in the Weighmaster Act. The deputy weighmaster shall
9 perform ~~[his]~~ the deputy weighmaster's duties in accordance
10 with the same provisions of the Weighmaster Act applicable to
11 the weighmaster."

12 SECTION 71. A new section of the Weighmaster Act is
13 enacted to read:

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

20 SECTION 72. Section 57-19-25 NMSA 1978 (being Laws 1993,
21 Chapter 98, Section 1) is amended to read:

22 "57-19-25. SHORT TITLE.--~~[This act]~~ Sections 57-19-25
23 through 57-19-37 NMSA 1978 may be cited as the "Petroleum
24 Products Standards Act".

25 SECTION 73. Section 57-19-27 NMSA 1978 (being Laws 1993,

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1 Chapter 98, Section 3, as amended) is amended to read:

2 "57-19-27. DEFINITIONS.--As used in the Petroleum
3 Products Standards Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 SECTION 74. Section 57-19-34 NMSA 1978 (being Laws 1993,
18 Chapter 98, Section 10) is repealed and a new Section 57-19-34
19 NMSA 1978 is enacted to read:

20 "57-19-34. [NEW MATERIAL] REGISTRATION--RENEWAL--
21 SUSPENSION OR REVOCATION--PROHIBITION OF UNREGISTERED
22 ACTIVITIES.--

23 A. The board shall promulgate rules for the
24 registration of petroleum service establishments and service
25 technicians, including technician qualifications, registration

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1 requirements, authority and responsibilities of registrants and
2 sufficient certified test standards.

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

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

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

17 E. The director may suspend or revoke the
18 registration of a service establishment or service technician
19 on satisfactory evidence that the registrant has violated a
20 provision of the Petroleum Products Standards Act or rules
21 promulgated in accordance with that act."

22 SECTION 75. Section 57-19-35 NMSA 1978 (being Laws 1993,
23 Chapter 98, Section 11) is amended to read:

24 "57-19-35. FEES--MONEY COLLECTED.--~~[All money collected~~
25 ~~pursuant to the provisions of the Petroleum Products Standards~~

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1 Act]

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

4 (1) annual service establishment registration,
5 one hundred fifty dollars (\$150) and beginning July 1, 2030,
6 two hundred dollars (\$200);

7 (2) annual service technician registration,
8 fifty dollars (\$50.00) and beginning July 1, 2030, seventy-five
9 dollars (\$75.00); and

10 (3) renewal late fee, one hundred dollars
11 (\$100).

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

16 SECTION 76. Section 57-19-36 NMSA 1978 (being Laws 1993,
17 Chapter 98, Section 12, as amended) is repealed and a new
18 Section 57-19-36 NMSA 1978 is enacted to read:

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

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

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

25 (2) violate a rule adopted pursuant to the

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1 Petroleum Products Standards Act; or

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

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

9 SECTION 77. RECOMPILATION.--Sections 60-16-3 through
10 60-16-6 NMSA 1978 (being Laws 2018, Chapter 47, Sections 3
11 through 6) are recompiled as Sections 76-16A-3 through 76-16A-6
12 NMSA 1978.

13 SECTION 78. REPEAL.--

14 A. Sections 57-17-16 through 57-17-18 NMSA 1978
15 (being Laws 1959, Chapter 202, Sections 23, 25 and 26, as
16 amended) are repealed.

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

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

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

24 E. Sections 76-9-6 and 76-9-9 NMSA 1978 (being Laws
25 1975, Chapter 122, Sections 6 and 9) are repealed.

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