

b. A practitioner shall provide verbal verification of the facsimile prescription upon the request of the pharmacy.

Sec. 17. Section 155A.32, subsections 1 and 3, Code 2003, are amended to read as follows:

1. If an authorized prescriber prescribes, ~~either~~ in writing, electronically, by facsimile, or orally, a drug by its brand or trade name, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale to the patient. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A, the pharmacist shall exercise professional judgment by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale. If the pharmacist exercises drug product selection, the pharmacist shall inform the patient of the savings which the patient will obtain as a result of the drug product selection and pass on to the patient no less than fifty percent of the difference in actual acquisition costs between the drug prescribed and the drug substituted.

3. If selection of a generically equivalent product is made under this section, the pharmacist making the selection shall note that fact and the name of the manufacturer of the selected drug on the prescription presented by the patient or the patient's adult representative or transmitted by the prescriber or the prescriber's authorized agent.

Approved April 2, 2004

CHAPTER 1037

CATTLE INDUSTRY PROMOTION, EDUCATION, AND RESEARCH — ASSESSMENTS ON CATTLE SALES

S.F. 2217

AN ACT relating to assessments imposed on cattle for purposes of promotion, education, and research, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 181.1, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

181.1 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

1. "Association" means the Iowa beef cattle producers association.
2. "Cattle" means any live domesticated bovine animal regardless of age.
3. "Council" means the Iowa beef industry council.
4. "Federal act" means the federal Beef Promotion and Research Act of 1985, 7 U.S.C., § 2901 et seq.
5. "Federal assessment" means an excise tax on the sale of bovine animals imposed pursuant to the federal act.
6. "Producer" means any person who owns or acquires ownership of cattle. However, a person shall not be considered a producer if any of the following apply:
 - a. The person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

b. The person acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party; resold such cattle no later than ten days from the date on which the person acquired ownership; and certified as required by rules adopted by the council.

7. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

8. "Records" means books, papers, documents, accounts, agreements, memoranda, electronic records of accounts, or correspondence relating to a matter regulated under this chapter.

9. "Secretary" means the secretary of agriculture.

10. "State assessment" means an excise tax on the sale of cattle imposed pursuant to this chapter.

Sec. 2. Section 181.2, Code 2003, is amended to read as follows:

181.2 DUTIES AND OBJECTS OF ASSOCIATION.

The Iowa beef cattle producers association shall do all of the following:

1. Aid in the promotion of the beef cattle industry of the state.
2. Provide for practical and scientific instruction in the breeding and raising of beef cattle.
3. ~~Provide for the inspection of herds, premises, appliances, methods, and feedstuffs used in the raising of beef cattle.~~
4. Make demonstrations in the feeding of beef cattle and publish suggestions beneficial to such business.
5. ~~4.~~ Aid and promote beef cattle feeding contests, shows, and sales.
6. ~~Publish a breeders' directory.~~
7. ~~5.~~ Prepare an annual report of the proceedings and expenditures of the council as provided in section 181.18B.

Sec. 3. Section 181.3, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

An ~~executive committee~~ Iowa beef industry council of the Iowa beef cattle producers association is created. The ~~executive committee~~ council consists of eight members, ~~as follows including all of the following~~:

Sec. 4. Section 181.3, subsections 2 through 4, Code 2003, are amended to read as follows:

2. The Iowa livestock auction market association shall nominate two livestock market representatives. The secretary of agriculture shall appoint one of the nominees or another livestock market representative of the secretary's choice ~~as the livestock market representative on the executive committee~~, who shall serve at the pleasure of the secretary.

3. The ~~executive committee~~ council shall elect a chairperson, secretary, and other officers it deems necessary.

4. Except for ex officio members, vacancies in the ~~executive committee~~ council resulting from death, inability or refusal to serve, or failure to meet the qualifications of this chapter, shall be filled by the ~~executive committee~~ council. If the ~~executive committee~~ council fails to fill a vacancy, the secretary of agriculture shall fill it. Vacancy appointments shall be only for the remainder of the unexpired term.

Sec. 5. Section 181.4, Code 2003, is amended to read as follows:

181.4 EMPLOYEES OF COMMITTEE COUNCIL.

The ~~executive committee~~ council may employ two or more competent persons who shall devote their entire time, under the direction of the ~~committee~~ council, in carrying out the provisions of this chapter. The salary of persons so employed shall be set by the ~~executive committee~~ council, and the persons shall hold office at the pleasure of the ~~executive committee~~ council.

Sec. 6. Section 181.6A, Code 2003, is amended to read as follows:

181.6A ELECTION OF ~~EXECUTIVE COMMITTEE~~ COUNCIL.

1. The Iowa beef cattle producers association shall hold an annual meeting of producers. An election shall be held at the annual meeting, as necessary, for election of producers to the ~~executive committee~~ council.

2. Prior to the annual meeting, the ~~Iowa beef cattle producers~~ association shall appoint a nominating committee. At least sixty days prior to the annual meeting of the ~~Iowa beef cattle producers~~ association, the nominating committee shall nominate two producers as candidates for each position on the ~~executive committee~~ council for which an election is to be held. At least forty-five days prior to the annual meeting of the ~~Iowa beef cattle producers~~ association, additional candidates may be nominated by a written petition of fifty producers. Procedures governing the place of filing and the contents of the petition shall be promulgated and publicized by the ~~executive committee~~ council.

3. Producers attending the annual meeting of the ~~Iowa beef cattle producers~~ association may vote for one nominee for each position on the ~~executive committee~~ council for which an election is held. Producers not attending the annual meeting of the ~~Iowa beef cattle producers~~ association may vote by absentee ballot, if the ballot is requested and mailed, with proper postage, to the ~~executive committee~~ council prior to the annual meeting of the ~~Iowa beef cattle producers~~ association. For each position for which an election is held, the candidate receiving the highest number of votes shall be elected.

4. Notice of election for ~~executive committee~~ council membership shall be given by the ~~executive committee~~ council by publication in a newspaper of general circulation in the state and in any other reasonable manner as determined by the ~~executive committee~~ council, and shall set forth the date, time, and place of the annual meeting of the ~~Iowa beef cattle producers~~ association. The ~~executive committee~~ council shall administer the elections, with the assistance of the secretary of agriculture.

Sec. 7. Section 181.7, Code 2003, is amended to read as follows:

181.7 RESEARCH AND EDUCATIONAL PROGRAMS.

The ~~executive committee~~ council shall ~~engage in~~ initiate, administer, or participate in research and education programs directed toward the better and more efficient production, marketing promotion, and utilization of cattle and veal calves and the marketing of products made therefrom; from cattle. The council shall provide for the methods and means that it determines are necessary to further the purposes of this section including, but not limited to, public any of the following:

1. Providing public relations and other promotion techniques for the maintenance of present markets; make,

2. Making donations to nonprofit organizations working toward furthering the purposes of this section; assist,

3. Assisting in the development of new or larger domestic markets both domestic and foreign for cattle and veal calves and products made therefrom from cattle.

4. Assisting in the development of new or larger foreign markets for cattle and products made from cattle.

Sec. 8. Section 181.7A, Code 2003, is amended to read as follows:

181.7A COLLECTION COMMENCEMENT OF FEDERAL ASSESSMENT — SUSPENSION AND RECOMMENCEMENT OF THE STATE ASSESSMENT.

1. Prior to the commencement of the collection of the federal assessment pursuant to the Beef Promotion and Research Act of 1985, the ~~executive committee~~ council may seek certification as a qualified state beef council within the meaning of that the federal Act. ~~If the executive committee does not receive certification as a qualified state beef council it shall, if necessary to prevent collection of an excise tax on beef cattle in addition to the national assessment, suspend the collection of the excise tax provided in this chapter. If the executive committee does suspend collection of the excise tax provided in this chapter, the period of that suspension terminates upon expiration of the~~

2. The council shall suspend the state assessment upon collection of the federal assessment. The state assessment shall recommence upon the earlier of the following:

a. The noncollection of the federal assessment collected pursuant to the Beef Promotion and Research Act of 1985. The recommenced state assessment shall be imposed for a four-year period. Its effective date shall be the first date for which the federal assessment is not collected.

b. The passage of a special referendum pursuant to section 181.19 regardless of whether a federal assessment is being collected.

Sec. 9. Section 181.8, Code 2003, is amended to read as follows:

181.8 EXAMINING BOOKS AND PAPERS ENTERING PREMISES — EXAMINING RECORDS.

~~The executive committee shall have power to~~ council may authorize its agents to enter at a reasonable time upon the premises of any purchaser charged by this chapter with remitting the state assessment to the ~~committee~~ council, and to cause to be examined by ~~such agent or agents,~~ all books, examine records, documents, and other instruments bearing upon relating to the amount collection of such excise tax; provided, however, ~~that the state assessment. However,~~ the ~~executive committee~~ council must first have reasonable grounds to believe that all such excise taxes have the state assessment has not been remitted or fully accounted for, ~~as herein provided.~~

~~The executive committee is authorized to~~ council may enter into arrangements with persons purchasing cattle and veal calves for slaughter outside of Iowa ~~on the basis provided in section 181.9, this state~~ for remitting the excise tax state assessment by such buyers purchasers.

Sec. 10. NEW SECTION. 181.11 RATE OF ASSESSMENT.

A state assessment imposed as provided in this chapter shall be levied and collected from the purchaser on each sale of cattle at a rate provided in this chapter. The state assessment shall be imposed on any person selling cattle and shall be deducted by the purchaser from the price paid to the seller. The purchaser, at the time of the sale, shall make and deliver to the seller, a separate invoice for each sale showing the names and addresses of the seller and the purchaser, the number of cattle sold, and the date of sale. The purchaser shall forward the state assessment to the council at a time prescribed by the council, but not later than the last day of the month following the end of the prior reporting period in which the cattle are sold.

Sec. 11. Section 181.12, Code 2003, is amended to read as follows:

181.12 REMISSION OF TAX STATE ASSESSMENT ON APPLICATION.

A person from whom ~~the excise tax a state assessment~~ is collected may, by written application filed with the ~~executive committee~~ council within sixty days after its collection, have the amount remitted to the person by the ~~executive committee~~ council. The information that the ~~excise tax state assessment~~ is refundable and the address of the ~~executive committee~~ council to which application for a refund may be made shall appear on the invoice of sale form supplied by the purchaser to the producer near the area on the form which shows the amount of the ~~excise tax state assessment~~ paid. The ~~executive committee~~ council shall furnish uniform application for refund forms and envelopes properly addressed to the ~~executive committee~~ council to each purchaser charged by this chapter with remitting the ~~excise tax state assessment~~ in sufficient number to make the refund forms and envelopes readily available to all producers. A purchaser charged by this chapter with remitting the ~~excise tax state assessment~~ shall display the application for refund forms and envelopes in a prominent position in its place of business and make them readily available to all producers.

Sec. 12. Section 181.13, Code Supplement 2003, is amended to read as follows:

181.13 ADMINISTRATION OF MONEYS ORIGINATING FROM STATE ASSESSMENT — APPROPRIATION.

1. All excise taxes imposed and levied state assessments imposed under this chapter shall

be paid to and collected by the ~~executive committee council~~ and deposited with the treasurer of state in a separate cattle and veal calf promotion fund which shall be created by the treasurer of state. The department of administrative services shall transfer moneys from the fund to the ~~executive committee council~~ for deposit into an account established by the ~~executive committee council~~ in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the ~~executive committee council~~. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From the moneys collected, deposited, and transferred to the ~~executive committee council~~, in accordance with the provisions of this chapter, the ~~executive committee council~~ shall first pay the costs of referendums held pursuant to this chapter, the costs of collection of such ~~excise tax state assessments, and the expenses of its agents and expenses of officers provided for in section 181.5.~~ Except as otherwise provided in section 181.19, at least ten percent of the remaining funds moneys shall be remitted to the Iowa beef cattle producers association in proportions determined by the ~~executive committee council~~, for use in a manner not inconsistent with section 181.7. The remaining moneys, with approval of a majority of the ~~executive committee council~~, shall be expended as the ~~executive committee council~~ finds necessary to carry out the provisions and purposes of this chapter. However, in no event shall the total expenses exceed the total amount transferred from the fund for use by the ~~executive committee council~~.

2. All moneys deposited in the cattle and veal calf promotion fund and transferred to the ~~executive committee council~~ pursuant to this section are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

3. If the state assessment is suspended as provided in section 181.7A or a continuance referendum fails to pass as provided in section 181.19A, moneys remaining in the cattle promotion fund and transferred to the council shall continue to be transferred and expended in accordance with the provisions of this chapter until exhausted.

Sec. 13. Section 181.15, Code 2003, is amended to read as follows:

181.15 IMPOSITION FOR ADDITIONAL PERIOD REFERENDUM — PROCEDURES.

Upon receiving a petition to conduct a referendum as provided in section 181.19 or 181.19A, the secretary shall conduct the referendum as follows:

1. The secretary shall provide for the publication of a notice of the referendum for a period of not less than five days in a newspaper of general circulation in the state and in such other newspapers as the secretary may prescribe. The notice of referendum shall set forth the period for voting and the voting places for the referendum and the amount of the state assessment. A referendum shall not be commenced prior to fourteen days after the last day of such period of publication.

2. Each producer upon signing a statement certifying that the person is a bona fide producer, as defined in this chapter, shall be entitled to one vote. At the close of the referendum period, the secretary shall count and tabulate the ballots filed during the referendum period. The ballots cast in the referendum shall constitute complete and conclusive evidence for use in any determination made by the secretary under the provisions of this chapter.

3. The secretary shall tabulate the ballots to determine whether the referendum has passed. If from such tabulation the secretary finds determines that a majority of the total number of producers voting favor approves the assessment imposition of a state assessment, the excise tax provided for in section 181.9 state assessment shall be levied and imposed for an additional four years from the end of the previous taxing period as provided in section 181.11 at a rate provided for in section 181.19.

4. The ballots thus cast shall constitute complete and conclusive evidence for use in any finding made by the secretary under the provisions of this chapter. The secretary may prescribe such additional procedures as may be necessary to conduct a referendum.

In the event of the failure of any referendum provided for herein to pass, a subsequent referendum may be called by the secretary upon petition therefor by at least one hundred producers

~~within one hundred eighty days after the secretary's determination that the prior referendum has failed. In the event of failure to make such petition within said period, or, the second consecutive failure of a referendum to pass, no further referendum shall be conducted and the levy and assessment herein created shall terminate and be of no further force or effect.~~

Sec. 14. Section 181.18B, Code 2003, is amended to read as follows:
181.18B REPORT.

~~The executive committee~~ Each year, the council shall each year prepare and submit a report summarizing the activities of the ~~executive committee~~ council under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under this chapter.

Sec. 15. Section 181.19, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

181.19 INITIAL AND SPECIAL REFERENDUMS.

1. The secretary shall, upon the petition of five hundred producers, conduct an initial referendum to determine whether a state assessment is to be imposed, at a rate established by the council, of not to exceed fifty cents per head on all cattle sold for any purpose.
2. The secretary shall, upon the petition of five hundred producers, conduct a special referendum to do any of the following:
 - a. Determine whether a state assessment already imposed shall be increased to a rate, established by the council, not to exceed one dollar per head on all cattle sold for any purpose.
 - b. Determine whether a state assessment suspended pursuant to section 181.7A is to be in addition to a federal assessment. The state assessment shall be imposed at a rate of fifty cents per head on all cattle sold for whatever purpose.
3. If a referendum passes, the secretary shall establish an effective date to commence the state assessment. However, the state assessment must be commenced within ninety days from the date that the secretary determines that the referendum has passed.
4. If a special referendum to increase the rate of the state assessment does not pass, the result of the special referendum shall not affect the existence or length of the state assessment in effect on the date that the special referendum was conducted.

Sec. 16. NEW SECTION. 181.19A CONTINUANCE REFERENDUM.

1. The secretary shall, upon the petition of producers, conduct a continuance referendum to determine whether a state assessment should be renewed. The secretary must receive the petition not less than one hundred fifty and not more than two hundred forty days before the four-year anniversary of a state assessment's effective date. The petition must be signed within that period by a number of producers equal to or greater than two percent of the number of producers in this state reported in the most recent United States census of agriculture, requesting a referendum to determine whether to continue the state assessment. The referendum shall be conducted not earlier than thirty days before the four-year anniversary date of the state assessment.
2. If the secretary determines that a continuance referendum has passed, the state assessment shall continue in effect for four additional years from the anniversary of its effective date.
3. If the secretary determines that the referendum has not passed, the secretary and the council shall terminate the assessment in an orderly manner as soon as practicable after the determination. Another referendum shall not be held for at least one hundred eighty days from the date that the assessment is terminated.
4. If no valid petition for a continuance referendum is received by the secretary within the time period provided in this section, the state assessment shall continue in effect for four additional years from the anniversary of its effective date.

Sec. 17. RATE OF ASSESSMENT. If a state assessment which has been suspended as provided in section 181.7A, as amended by this Act, is recommenced as provided in that section,

as amended by this Act, the rate of the state assessment shall be fifty cents per head on all cattle sold for any purpose, unless another rate is established by referendum conducted pursuant to section 181.19, as amended by this Act.

Sec. 18. Sections 181.9, 181.10, 181.14, and 181.16, Code 2003, are repealed.

Sec. 19. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 7, 2004

CHAPTER 1038

GRAIN REGULATION

S.F. 2224

AN ACT relating to grain regulation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 203.1, subsection 10, unnumbered paragraph 1, Code Supplement 2003, is amended to read as follows:

“Grain dealer” means a person who ~~buys~~ cumulatively purchases at least one thousand bushels of grain from producers during any calendar month one thousand bushels of grain or more directly from the producers of the grain, if such grain is delivered within or into this state for purposes of resale, milling, or processing in this state. However, “grain dealer” does not include any of the following:

Approved April 7, 2004

CHAPTER 1039

USE OF CREDIT INFORMATION — PERSONAL INSURANCE

S.F. 2257

AN ACT relating to the use of credit information for underwriting or rating risks for personal insurance and providing an applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 515.109A USE OF CREDIT INFORMATION — PERSONAL INSURANCE.

1. DEFINITIONS. As used in this section unless the context otherwise requires: