

CHAPTER 7
IOWA EGG COUNCIL
H.F. 179

AN ACT relating to eggs and poultry by reorganizing the statutory provisions and providing for the administration of the Iowa egg council, assessments and refunds, and the repeal of certain sections, and providing an effective date.

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

Section 1. Section 196.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Department" means the department of inspections and appeals, as established in section 10A.102.

Sec. 2. Section 196.1, subsection 9, Code 1995, is amended to read as follows:

9. ~~"Secretary", "department", and "package" have the meanings ascribed to them~~ "Package" means the same as defined in section 189.1.

Sec. 3. Section 196.2, Code 1995, is amended to read as follows:

196.2 ENFORCEMENT.

The ~~secretary~~ department shall enforce ~~the provisions of~~ this chapter, and may ~~make~~ adopt rules pursuant to chapter 17A and consistent with regulations of the United States government as they exist on July 1, 1985, pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. § 1621 et seq., and the Egg Products Inspection Act of 1970, 21 U.S.C. § 1044 et seq.

Sec. 4. Section 196A.1, Code 1995, is amended to read as follows:

196A.1 DEFINITIONS.

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

1. "Assessment" means an excise tax on the sale of eggs as provided in this chapter.
1. ~~2.~~ "Council" means the Iowa egg council.
2. ~~"District" means a producer district established by the Iowa poultry association, incorporated. The Iowa poultry association, incorporated shall establish four districts in this state from which egg producers shall be appointed to serve on the Iowa egg council pursuant to this chapter.~~
3. ~~"Hatchery operator" means any person who operates a hatchery licensed under chapter 168 and who is actively engaged in the business of hatching or selling chickens for commercial purposes.~~
3. "Egg by-product" means a product produced in whole or in part from eggs or spent fowl.
4. "Eggs" means eggs produced from a layer-type chicken. "Eggs" includes shell eggs or eggs broken for further processing, but does not include fertile eggs that are incubated, hatched, or used for vaccines.
4. ~~5.~~ "Market development" means research and educational programs which are directed toward:
 - a. Better and more efficient production, marketing, and utilization of ~~poultry and poultry products~~ eggs or egg by-products produced for resale.
 - b. Better methods, including, but not limited to, public relations and other promotion techniques, for the maintenance of present markets and for the development of new or larger domestic or foreign markets and for the sale of ~~poultry and poultry products~~ eggs or egg by-products.
 - c. Prevention, modification, or elimination of trade barriers which obstruct the free flow of ~~poultry and poultry products~~ eggs or egg by-products to market.

5. ~~“Poultry and poultry products” means layer type chicken hens and eggs, including hatching eggs, and their products.~~

6. “Processor” means the first purchaser of eggs from a producer, or a person who both produces and processes eggs.

7. “Producer” means any person who owns, or contracts for the care of, ~~five hundred thirty thousand~~ or more layer-type chickens, ~~the eggs of which are sold in this state through commercial channels, including, but not limited to, eggs for hatching, which have been produced by the producer’s own flock raised in this state.~~

8. “Purchaser” means a person who resells eggs purchased from a producer or offers for sale a product produced from ~~such the~~ eggs for any purpose.

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

Sec. 5. Section 196A.4, Code 1995, is amended to read as follows:

196A.4 ESTABLISHMENT OF IOWA EGG COUNCIL AND TAX ASSESSMENT.

1. The secretary shall call and the department shall conduct a referendum upon the department’s receipt of a petition which is signed by at least twenty producers requesting a referendum to determine whether to establish an Iowa egg council and to impose an assessment as provided in section 196A.15. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The department shall give notice of the referendum on the question whether to establish a council and to impose an assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

3. Each producer who signs a statement certifying that the producer is a bona fide producer shall be entitled to one vote. At the close of the referendum, the secretary shall count and tabulate the ballots cast. If a majority of voters favor establishing an Iowa egg council and imposing ~~a tax an assessment~~, ~~an Iowa egg a council~~ shall be established, and ~~the tax an assessment~~ shall be imposed commencing not more than sixty days following the referendum as determined by the ~~Iowa egg council~~ and shall continue for a period of five years unless extended as provided ~~under this chapter in section 196A.4A~~. If a majority of the voters do not favor establishing ~~an Iowa egg the council~~ and imposing the ~~tax assessment~~, ~~the tax will not be imposed nor will the council shall not~~ be established ~~and an assessment shall not be imposed~~ until another referendum is held under this chapter and a majority of the voters ~~favor approve~~ establishing a council and imposing the ~~tax assessment~~. If a referendum should fail, another referendum shall not be held within one hundred eighty days.

~~Subsequent referendums to extend the imposition of the tax shall be held every five years in the year prior to the expiration of the tax in force; however, upon receipt of a petition signed by at least fifty producers requesting a referendum election to determine whether to terminate the establishment of the Iowa egg council and to terminate the imposition of the excise tax as provided herein, the secretary shall call a referendum to be conducted within sixty days following the receipt of the petition. The petitioners shall guarantee the payment of the costs of such referendum. If the majority of the voters of any subsequent referendum do not favor an extension, an additional referendum may be held when the secretary receives a petition signed by at least fifty producers. However, the subsequent referendum shall not be held within one hundred eighty days.~~

4. Immediately after passage of the question at the referendum, the secretary shall appoint seven members to the council in accordance with section 196A.5 based on

nominations made by the Iowa poultry association. The association shall nominate and the secretary shall appoint two members representing large producers, two members representing medium producers, and three members representing small producers. The department, in consultation with the association, shall determine initial classifications for small, medium, and large producers. The secretary shall complete the appointments within thirty days following passage of the question at the referendum.

Sec. 6. NEW SECTION. 196A.4A REFERENDUMS CONDUCTED DURING THE TENURE OF THE COUNCIL AND ASSESSMENT.

1. A referendum shall be conducted as follows:

a. A referendum to extend the imposition of the assessment imposed pursuant to section 196A.4 shall be held every five years in the year prior to the expiration of the assessment in force.

b. The secretary shall call, and the department shall conduct, a referendum upon the department's receipt of a petition which is signed by at least twenty producers requesting a referendum to determine whether to terminate the council and the imposition of the assessment. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The following procedures shall apply to a referendum:

a. The department shall give notice of the referendum on the question whether to continue the council and the assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the secretary that a person is a bona fide producer, the person is entitled to one vote in each referendum conducted pursuant to this section. The department shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of the total number of producers voting in the referendum approves the continuation of the council and the assessment as provided in the referendum, the council shall remain in existence and the assessment shall be levied as provided in this chapter.

(2) If a majority of the total number of producers voting in referendum held pursuant to this section do not approve continuing the council and the assessment as provided in the referendum, the secretary shall terminate collection of the assessment on the first day of the year for which the referendum was to continue. The secretary shall terminate the activities of the council in an orderly manner as soon as practicable after the determination. An additional referendum may be held as provided in section 196A.4. However, the subsequent referendum shall not be held within one hundred eighty days.

Sec. 7. Section 196A.5, Code 1995, is amended to read as follows:

196A.5 COMPOSITION OF COUNCIL.

The Iowa egg council established under this chapter shall be composed of four egg seven producers, one from each district, two egg processors, and one hatchery operator who shall be appointed pursuant to this chapter. Each council member must be a natural person who is a producer or an officer, equity owner, or employee of a producer. A producer shall not be represented more than once on the council. Two persons shall represent large producers, two persons shall represent medium producers, and three persons shall represent small producers. The council shall adopt rules pursuant to chapter 17A establishing classifications for large, medium, and small producers. The following persons or their designees shall serve as ex officio nonvoting members:

1. The secretary or the secretary's representative, the

2. The director of the Iowa department of economic development, and the

~~3. The chairperson of the poultry science section of the department of animal science at Iowa State University of science and technology or the chairperson's representative shall serve as ex officio nonvoting members of the council. The council shall annually elect a chairperson from its membership.~~

Sec. 8. **NEW SECTION.** 196A.5A TERMS AND ADMINISTRATION PROCEDURES.

1. A person shall serve as a member on the council for a term of three years. A person may serve as a member on the council for more than one term. However, if a person serves for two complete consecutive terms, the person must wait at least twelve months prior to serving another term.

2. The council shall elect a chairperson, and other officers as needed, from among its voting members who shall serve for a one-year term, and may be reelected to serve subsequent terms according to procedures adopted by the council.

3. A majority of voting members of the council present during a meeting shall constitute a quorum. A majority of the members present during a meeting is necessary to carry out the duties and exercise the powers of the council as provided in this chapter, unless the council requires a greater number.

4. The council shall meet at least once every three months and at other times the council determines are necessary.

Sec. 9. **NEW SECTION.** 196A.5B ELECTION AND APPOINTMENT PROCEDURES.

1. The council shall appoint a committee to nominate candidates to stand for election to the council. The council may require that the committee nominate candidates to be appointed by the council to fill a vacancy in a position for the unexpired term of a member. The committee shall be comprised of five producers, including the chairperson of the council who shall serve as the chairperson of the nominating committee. The nominating committee shall include at least one member of the council whose term is next to expire. The committee shall also include at least one producer who is classified as a large producer, if a member whose term is to expire represents large producers; at least one producer who is classified as a medium producer, if a member whose term is to expire represents medium producers; and at least one producer who is classified as a small producer, if a member whose term is to expire represents small producers.

2. The council shall appoint a producer to fill a member's position occurring because of a vacancy on the council. The person appointed to fill the vacancy must meet the same requirements as a person elected to that position. The person shall serve for the remainder of the unexpired term.

3. A notice of an election for members of the council shall be provided by the council by publication in a newspaper of general circulation in the state and in any other reasonable manner required by the council. The notice shall include the period of time for voting, voting places, and any other information determined necessary by the council.

Sec. 10. Section 196A.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Administer elections for members of the council and provide for the appointment of persons to fill vacancies occurring on the council, as provided in section 196A.5B. The department may assist the council in administering an election, upon request to the secretary by the council.

Sec. 11. Section 196A.12, subsection 4, Code 1995, is amended to read as follows:

4. Enter into arrangements for the collection of the ~~tax on eggs~~ assessment.

Sec. 12. Section 196A.13, Code 1995, is amended to read as follows:

196A.13 PROHIBITED ACTIONS.

The council shall not do any of the following:

1. Become a dues-paying member of any ~~other firm, association, organization or corporation, including but not limited to a firm, association, or corporation, regardless of whether the organization is public or private. However, upon approval by the council, the council may become a dues-paying member of an organization carrying out a purpose related to the increased consumption and utilization of eggs or egg by-products.~~

2. ~~Furnish, directly or indirectly, any~~ Provide direct or indirect financial support to or for any other person, firm, association, organization or corporation, public or private, except as provided in subsection 1 or for contracts for services rendered or to be rendered ~~for related to research, and promotional, and or public relations programs, and or for the administrative expenses of the Iowa egg council.~~

3. Act, directly or indirectly, in any capacity in marketing or making contracts for the marketing of eggs or ~~poultry egg by-products.~~

4. Act, directly or indirectly, in any capacity in selling or contracting for the selling of ~~egg producing or poultry producing egg or egg by-product equipment.~~

5. Make any contribution ~~out of the funds of the council~~ moneys, either directly or indirectly, to any political party or organization or in support of any a political candidate for public office, or ~~make~~ payments to a political candidate or ~~including but not limited to a member of Congress or the Iowa legislature general assembly for honorariums, speeches, or for any other purposes above actual and necessary expenses.~~

Sec. 13. Section 196A.14, Code 1995, is amended to read as follows:

196A.14 COMPENSATION.

Members of the council may receive payment for their actual expenses and travel in performing official council functions. Payment shall be made from amounts collected from the ~~tax assessment. No~~ A member of the council shall ~~not~~ be a salaried employee of the council or any organization or agency receiving funds moneys from the council. ~~The council shall meet at least once every three months, and at other times it deems necessary.~~

Sec. 14. Section 196A.15, Code 1995, is amended to read as follows:

196A.15 TAX ASSESSMENT.

If approved by a majority of voters at a referendum ~~as provided in this chapter, a tax to be an assessment amount set by the council at not more than five cents for each thirty dozen eggs sold by a producer will produced in this state shall~~ be imposed on the producer at the time of delivery to a purchaser who will deduct the ~~tax assessment~~ from the price paid to the producer at the time of sale. ~~The assessment shall not be refundable. The assessment is due to be paid to the council within thirty days following each calendar quarter, as provided by the council.~~

PARAGRAPH DIVIDED. If the producer sells eggs to a purchaser outside the state of Iowa, the producer shall deduct the tax from the amount received from the sale and shall forward the amount deducted to the council within thirty days following each calendar quarter. If the producer and processor are the same person, then that person shall pay the ~~tax assessment~~ to the council within thirty days following each calendar quarter.

Sec. 15. Section 196A.16, subsection 5, Code 1995, is amended to read as follows:

5. The rate of withholding and the total amount of ~~tax assessment~~ withheld.

Sec. 16. Section 196A.19, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Moneys collected, deposited in the fund, and transferred to the council as provided in this chapter are subject to audit by the auditor of state. The moneys transferred to the council, shall be used by the Iowa egg council first for the payment of collection expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third for market development. Moneys remaining after a referendum is held when a majority of the voters do not favor extending the ~~tax assessment~~ shall continue to be expended in accordance with this chapter until exhausted.

Sec. 17. Section 196A.24, Code 1995, is amended to read as follows:

196A.24 PURCHASERS OUTSIDE IOWA.

The secretary may enter into arrangements with purchasers from outside Iowa for payment of the tax assessment.

Sec. 18. Sections 196A.2, 196A.3, 196A.6, 196A.7, 196A.8, 196A.9, 196A.10, and 196A.18, Code 1995, are repealed.

Sec. 19. IMPLEMENTATION. The council shall implement this Act, which may include providing for the early termination of the terms, nomination of candidates, elections, and the establishment of staggered terms for members elected after the effective date of this Act. The council may provide for shorter or longer terms for members first elected after the effective date of this Act. However, a term shall not be longer than three years. The term of a member elected prior to the effective date of this Act shall terminate not later than July 1, 1998. Notwithstanding this Act, a member serving on the council on the effective date of this Act may be reelected for an additional term. However, the member's term completed prior to the effective date of this Act shall be counted as a full term under this Act.

Sec. 20. CODE EDITOR. The Code editor is requested to consider transferring the provisions of chapter 196A to or near chapter 184, and renumbering its sections to enhance readability, including sections amended by this Act.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 14, 1995

CHAPTER 8

SALES TAX EXEMPTION FOR AUXILIARY ATTACHMENTS

H.F. 149

AN ACT relating to the state sales tax on auxiliary attachments for self-propelled and non-self-propelled farm machinery and equipment.

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

Section 1. Section 422.45, subsection 26, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The gross receipts from the sale or rental of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if the following conditions are met:

Sec. 2. Section 422.45, subsection 39, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The gross receipts from the sale or rental of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if all of the following conditions are met:

Approved March 20, 1995