

court, upon a finding of a knowing violation of this subsection, may impose a civil penalty, to be paid to the general fund of the state, in an amount not to exceed fifteen percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent of the original amount improperly withheld from escrow.

(3) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two years.

d. Each failure to make an annual deposit required under this subsection shall constitute a separate violation.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1999

CHAPTER 158
MARKETING OF TURKEYS AND TURKEY PRODUCTS —
COUNCIL — PRODUCER ASSESSMENT
H.F. 570

AN ACT relating to the Iowa turkey marketing council, by providing procedures for the administration of the council, a producer assessment, refunds, and for the expenditure of moneys by the council, and providing an effective date.

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

Section 1. Section 184A.1, Code 1999, is amended to read as follows:

184A.1 DEFINITIONS.

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

1. "Account" means the turkey council account created pursuant to section 184A.4.
2. "Council" means the "Iowa turkey marketing council" or "council" means the council administering promotion and research funds established pursuant to sections 184A.1A and 184A.1B. The council shall consist of the following seven members:
 - a. The Iowa secretary of agriculture or the secretary's representative.
 - b. The chairperson of the poultry science department of the Iowa state university of science and technology.
 - c. The Iowa turkey federation shall nominate ten representatives of the Iowa turkey industry, and the secretary shall appoint five representatives from the ten nominees or other representatives of the Iowa turkey industry of the secretary's choice as the representatives of the turkey industry on the council.
3. "Fund" means the Iowa turkey fund created pursuant to section 184A.4.
4. "Integrator" means any person who is both a producer and a processor.
2. 5. "Market development" means research and education programs directed toward to provide better and more efficient production, marketing, and utilization of turkey and turkey products produced for resale, and methods and means, including. The programs may include, but are not limited to, supporting public relations and other, promotion techniques, for and research efforts. The programs may provide for all of the following:
 - a. The maintenance of present markets, for and the development of new or larger domestic or foreign markets, for the sale of turkeys, and for,

~~b. The prevention, modification, or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market commerce. Market development includes providing promotion and research funds for Iowa's participation~~

~~c. The education of consumers regarding the benefits of purchasing and consuming turkey products and the role of turkey producers and processors.~~

~~d. Participation in activities such as the and events sponsored by the national turkey federation, the "eat more turkey" campaign, and the national turkey federation research fund and other activities as may be authorized by the council which provide for research and promotion regarding the production and marketing of turkeys and turkey products.~~

~~3. 6. "Processor" means any a person who purchases more than one thousand turkeys for slaughter each year. The word "processor" may include where applicable; A processor includes an integrator, who is a person who both produces and processes turkeys.~~

~~4. 7. "Producer" means any a person doing business residing within this state or outside this state who does business in this state and who grows raises more than two hundred five thousand turkeys for slaughter each year. The word "producer" may include where applicable; A producer includes an integrator, who is a person who both produces and processes turkeys.~~

~~5. 8. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.~~

~~6. "Secretary" means a person employed by the Iowa turkey marketing council to perform duties specified by this chapter or the council.~~

~~7. "Treasurer" means the person appointed as treasurer by the Iowa turkey marketing council from the membership of the council.~~

~~9. "Qualified producer" means a producer who resides within this state.~~

~~8. 10. "Turkeys" "Turkey" means turkeys a turkey raised for slaughter.~~

~~11. "Turkey product" means a product produced in whole or in part from a turkey.~~

Sec. 2. NEW SECTION. 184A.1A REFERENDUM CONDUCTED TO ESTABLISH AN IOWA TURKEY MARKETING COUNCIL AND IMPOSE AN ASSESSMENT.

1. The department shall call and conduct a referendum upon the department's receipt of a petition which is signed by at least twenty eligible voters requesting a referendum to determine whether to establish an Iowa turkey marketing council as provided in section 184A.1B and impose an assessment as provided in section 184A.2. In order to be an eligible voter under this section, a petitioner must be a qualified producer. The referendum shall be conducted by election 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, and for a similar period in other newspapers as prescribed by the department. The notice shall state the voting places, period of time for voting, the manner of voting, the amount of the assessment, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

3. a. Each eligible voter who signs a statement certifying that the eligible voter is a qualified producer shall be an eligible voter under this section. An eligible voter is entitled to cast one vote in each referendum conducted under this section. The department may conduct the referendum by mail, electronic means, or a general meeting of eligible voters.

b. At the close of the referendum, the department shall count and tabulate the ballots cast.

(1) If a majority of eligible voters who vote in the referendum approve establishing the council and imposing an assessment, a council shall be established, and an assessment shall be imposed commencing not more than sixty days following the referendum as determined by the council. The council and assessment shall continue for five years as provided in section 184A.12.

(2) If a majority of eligible voters who vote in the referendum do not approve establishing the council and imposing the assessment, the council shall not be established and an assessment shall not be imposed until another referendum is held under this section and a majority of the eligible voters voting approve establishing a council and imposing the assessment. If a referendum should fail, another referendum shall not be held within one hundred eighty days from the date of the last referendum.

4. Within thirty days after approval at the referendum to establish a council to impose an assessment, the department shall organize the council as provided in section 184A.1B.

Sec. 3. NEW SECTION. 184A.1B TURKEY MARKETING COUNCIL — COMPOSITION AND PROCEDURES.

1. The council shall consist of the following members:

a. The secretary of agriculture or the secretary's designee who shall serve at the pleasure of the secretary.

b. Six persons appointed by the board of the Iowa turkey federation. The appointees shall be knowledgeable about the care and management of poultry. The board shall appoint and replace the appointees by election as provided by the board. An appointee shall serve on the council at the pleasure of the board.

c. Any number of ex officio nonvoting members appointed by the board of the Iowa turkey federation. The board shall appoint and replace the appointees by election as provided by the board. An appointee shall serve on the council at the pleasure of the board.

2. The council shall elect a chairperson, and other officers, as needed, from among its members. An officer shall serve for a term as provided by the council, and may be reelected to serve subsequent terms unless otherwise provided by the council.

3. A majority of voting members of the council present during a meeting shall constitute a quorum. A majority of the voting 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 on the call of the chairperson or as otherwise provided by the council.

Sec. 4. NEW SECTION. 184A.1C POWERS OF THE COUNCIL.

The council may do all of the following:

1. Employ, manage, and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and provide for their compensation.

2. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.

3. Adopt rules necessary to administer the functions of the council as provided in this chapter.

4. Enter into arrangements for the collection and deposit of the assessment.

5. Require that any administrator, employee, or other person occupying a position of trust under this chapter give bond in the amount required by the council. The premiums for bonds shall be part of the costs of collecting the assessment.

6. Receive money, including in the form of gifts, rents, royalties, or license fees which shall be deposited in the turkey council account as provided in section 184A.4.

Sec. 5. Section 184A.2, Code 1999, is amended to read as follows:

184A.2 ~~FEE IMPOSED~~ — RATE ASSESSMENT.

1. If an assessment is approved by a majority of the eligible voters voting at a referendum as provided in section ~~184A.10~~ 184A.1A or 184A.12, there is hereby imposed a fee upon each turkey delivered for processing in the state of Iowa all of the following shall apply:

a. The assessment shall be imposed on each turkey delivered for processing.

b. The council shall establish a rate of the fee imposed assessment for each turkey delivered for processing. The council may establish different rates based on attributes or

~~characteristics of turkeys. However, a rate shall not be more than one cent for each turkey weighing less than ten pounds live weight and not more than two three cents for each turkey weighing ten or more pounds live weight, as established at the discretion of the council delivered for processing.~~

c. The fee assessment shall be imposed on the producer and collected at the time of delivery of a turkey to the processing plant and processor. The assessment shall be deducted by the processor at the time of delivery from the price paid to the producer at the time of the sale to the processor. A processor shall remit assessments to the council on a monthly basis as provided by the council. The council shall deposit the remitted assessments in the Iowa turkey fund as provided in section 184A.4.

2. The council may enter into agreements with processors from outside this state for the payment of the assessment.

3. The council shall provide for a refund of an assessment according to rules adopted by the council.

Sec. 6. Section 184A.3, Code 1999, is amended to read as follows:

184A.3 ~~INVOICES ASSESSMENT DOCUMENTATION.~~

At the time of delivery to the processing plant, the processor receiving turkeys for slaughter shall do all of the following:

1. At the time of payment to the producer, the processor shall sign and submit a receipt to the producer which includes the rate of assessment imposed and the amount of the assessment for all turkeys delivered for processing.

2. Within a period established by rules adopted by the council, the processor shall regularly sign and deliver submit to the producer separate invoices for each purchase or such council an invoice or other records which will be required by the council to expedite collection of the fee assessment. The council may require that the processor submit a separate invoice for each purchase. The invoices invoice shall be legibly printed and shall not be altered. An invoice shall show include all of the following:

1- a. The name and address of the producer and the seller, if the seller's name is different from the producer.

2- b. The name and address of the processor.

3- c. The quantity number of turkeys sold.

4- d. The date of the delivery.

Invoices shall be legibly written and shall not be altered.

Sec. 7. Section 184A.4, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

184A.4 ADMINISTRATION OF MONEYS.

1. The assessments collected by the council as provided in section 184A.2 shall be deposited in the office of the treasurer of state in a special fund known as the Iowa turkey fund. The department of revenue and finance shall transfer moneys from the fund to the council for deposit into the turkey council account established by the council pursuant to this section. The department shall transfer the moneys as provided in a resolution adopted by the 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.

2. The council shall establish a turkey council account in a qualified financial institution. The council shall provide for the deposit of all of the following into the account:

a. The assessment collected, deposited in the Iowa turkey fund, and transferred to the council as provided in this section.

b. Moneys, other than assessments, including moneys in the form of gifts, rents, royalties, or license fees received by the council pursuant to section 184A.1C.

Sec. 8. Section 184A.6, Code 1999, is amended to read as follows:

184A.6 USE OF MONEYS—APPROPRIATION.

1. All moneys deposited in the turkey council account pursuant to section 184A.4 shall be used by the council for purposes of administering this chapter. After payment of expenses, in accordance with section 184A.9 the

2. The council may use shall expend moneys transferred to the council as provided in this chapter which are appropriated and shall be used for the administration of this chapter, and for payment of claims based upon obligations incurred in from the account first for the payment of expenses for the collection of assessments, and then for the payment of expenses related to connecting* a referendum as provided in section 184A.12. The council shall expend remaining moneys for market development on behalf of the turkey industry, producer education, and the payment of refunds to producers as provided in this chapter.

Sec. 9. Section 184A.9, Code 1999, is amended to read as follows:
184A.9 AUDIT.

~~Moneys collected, deposited in the fund, and transferred to the council, required to be deposited in the turkey council account as provided in this chapter section 184A.4 shall be subject to audit by the auditor of state. The moneys shall be used by the council first for the payment of collection expenses and for payment of the costs and expenses arising in connection with conducting any required referendums, and secondly by the turkey marketing council for market development.~~

Sec. 10. Section 184A.12, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

184A.12 REFERENDUM CONDUCTED TO CONTINUE THE COUNCIL AND THE IMPOSITION OF THE ASSESSMENT.

1. The council shall call for a referendum to continue the council established pursuant to section 184A.1A, and to continue the assessment established pursuant to section 184A.2. The council shall call and conduct the referendum by election as provided in this section. The department shall oversee the conduct of the referendum. The referendum shall be conducted in the fifth year following the referendum establishing the council and assessment.

2. The following procedures shall apply to a referendum conducted pursuant to this section:

a. The council shall publish a notice of the referendum for a period of not less than five days in at least one newspaper of general circulation in the state and for a similar period in other newspapers as prescribed by the council. The notice shall state the voting places, period of time for voting, manner of voting, and other information deemed necessary by the council. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the council that a producer is an eligible voter, the producer is entitled to one vote in each referendum conducted pursuant to this section. In order to be an eligible voter under this section, a producer must be a qualified producer who paid an assessment in the year in which the referendum is held. The council may conduct the referendum by mail, electronic means, or a general meeting of eligible voters. The council 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 eligible voters who vote in the referendum approve the continuation of the council and the imposition of the assessment, the council and the imposition of the assessment shall continue as provided in this chapter.

(2) If a majority of eligible voters who vote in the referendum do not approve continuing the council and the imposition of the assessment, the department shall terminate the collection of the assessment on the first day of the year for which the referendum was to continue. The department shall terminate the activities of the council in an orderly manner as soon as practicable after the referendum. A subsequent referendum may be held as provided in section 184A.1A. However, the subsequent referendum shall not be held within one hundred eighty days from the date of the last referendum.

* The word "conducting" probably intended

Sec. 11. NEW SECTION. 184A.12A REFERENDUM CONDUCTED TO ABOLISH THE COUNCIL AND TERMINATE THE IMPOSITION OF THE ASSESSMENT.

1. A referendum may be called to abolish the council established pursuant to sections 184A.1A and 184A.1B, and to terminate the imposition of the assessment established pursuant to section 184A.2. The department shall call and conduct the referendum upon the department's receipt of a petition requesting the referendum. The petition must be signed by at least twenty eligible voters or fifty percent of all eligible voters, whichever is greater. In order to be an eligible voter under this section, a producer must be a qualified producer who paid an assessment in the year in which the referendum is held. The referendum shall be conducted by election 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 conducted pursuant to this section:

a. The department shall publish a notice of the referendum for a period of not less than five days in at least one newspaper of general circulation in the state and for a similar period in other newspapers as prescribed by the department. The notice shall state the voting places, period of time for voting, manner of 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 department that a producer is an eligible voter, the producer is entitled to one vote in each referendum conducted pursuant to this section. The department may conduct the referendum by mail, electronic means, or a general meeting of eligible voters. 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 eligible voters who vote in the referendum approve the continuation of the council and the imposition of the assessment, the council and the imposition of the assessment shall continue as provided in this chapter.

(2) If a majority of eligible voters who vote in the referendum do not approve continuing the council and the imposition of the assessment, the department shall terminate the collection of the assessment on the first day of the year for which the referendum was to continue. The department shall terminate the activities of the council in an orderly manner as soon as practicable after the referendum. A subsequent referendum may be held as provided in section 184A.1A. However, the subsequent referendum shall not be held within one hundred eighty days from the date of the last referendum.

Sec. 12. Section 184A.14, Code 1999, is amended to read as follows:

184A.14 EXAMINATION OF BOOKS.

Any person subject to the provisions of this chapter shall furnish, on forms provided by the council, ~~any information needed to enable~~ required by the council ~~and secretary~~ to effectuate the ~~policies~~ provisions of this chapter. ~~For the purpose of ascertaining the correctness of any report made to the council or secretary under the provisions of this~~ In order to administer this chapter, the ~~secretary~~ council may examine books, papers, records, copies of tax returns, accounts, correspondence, contracts, or other documents and memoranda that it deems relevant which are in the control of ~~any a person subject to this chapter~~ and which are not otherwise confidential as provided by law. The ~~secretary~~ council may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas duces tecum in connection with the administration of this ~~chapter~~ section.

Sec. 13. Section 184A.15, Code 1999, is amended to read as follows:

184A.15 MISDEMEANOR.

~~It is a simple misdemeanor for any~~ A person to is guilty of a simple misdemeanor for willfully ~~violate~~ violating any provision of this chapter, or for ~~any person to~~ willfully ~~render~~

~~rendering or furnish~~ furnishing a false or fraudulent report, statement, or record required by the council ~~or secretary~~.

Sec. 14. Section 184A.17, Code 1999, is amended to read as follows:

184A.17 REPORT.

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

Sec. 15. Section 184A.18, Code 1999, is amended to read as follows:

184A.18 NOT A STATE AGENCY.

The ~~Iowa turkey marketing~~ council ~~shall is~~ not be a state agency.

Sec. 16. Section 184A.19, Code 1999, is amended to read as follows:

184A.19 ~~DEFICIT SPENDING NOT AUTHORIZED~~ PROHIBITED ACTIVITIES.

~~This chapter shall not be construed to authorize the Iowa turkey marketing~~ The council to operate shall not do any of the following:

1. Operate with a deficit or use deficit financing for administration of this chapter.
2. Expend moneys from the account in a manner that is not authorized pursuant to section 184A.6.
3. Become involved in supporting a political campaign or issue, by making a contribution of moneys from the account, either directly or indirectly, to any political party or organization or in support of a political candidate for public office. The council shall not expend the moneys to a political candidate including but not limited to a member of congress or the general assembly for honorariums, speeches, or for any other purposes above actual and necessary expenses.

Sec. 17. Sections 184A.5, 184A.8, 184A.11, 184A.13, and 184A.16, Code 1999, are repealed.

Sec. 18. EFFECT OF THIS ACT — TRANSITION. This Act shall not require a referendum as provided in section 184A.1A, as amended by this Act. This Act does not modify when a referendum must be conducted as provided in section 184A.12, Code 1999. The Iowa turkey marketing council shall establish the rate of assessment as provided in section 184A.2, as amended by this Act.

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

Approved May 20, 1999