

EXCISE TAX ON TURKEYS

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 established pursuant to sections 184A.1A and 184A.1B.
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.
5. "*Market development*" means research and education programs to provide better and more efficient production, marketing, and utilization of turkey and turkey products produced for resale. The programs may include, but are not limited to, supporting public relations, promotion, and research efforts. The programs may provide for all of the following:
 - a. The maintenance of present markets and the development of new or larger domestic or foreign markets.
 - b. The prevention, modification, or elimination of trade barriers which obstruct the free flow of commerce.
 - 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 and events sponsored by the national turkey federation, and the national turkey federation research fund which provide for research and promotion regarding the production and marketing of turkeys and turkey products.
6. "*Processor*" means a person who purchases more than one thousand turkeys for slaughter each year. A processor includes an integrator.
7. "*Producer*" means a person residing within this state or outside this state who does business in this state and who raises more than five thousand turkeys for slaughter each year. A producer includes an integrator.
8. "*Qualified financial institution*" means a bank, credit union, or savings and loan as defined in section 12C.1.
9. "*Qualified producer*" means a producer who resides within this state.
10. "*Turkey*" means a turkey raised for slaughter.
11. "*Turkey product*" means a product produced in whole or in part from a turkey.

[C73, 75, 77, 79, 81, § 184A.1]

86 Acts, ch 1100, § 20; 94 Acts, ch 1146, §14; 99 Acts, ch 158, §1, 18, 19

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 and to impose an assessment, the department shall organize the council as provided in section 184A.1B.

99 Acts, ch 158, §2, 18, 19; 2000 Acts, ch 1058, §22

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.

99 Acts, ch 158, §3, 18, 19

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.

99 Acts, ch 158, §4, 18, 19

184A.2 Assessment.

1. If an assessment is approved by a majority of the eligible voters voting at a referendum as provided in section 184A.1A or 184A.12, 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 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 three cents for each turkey delivered for processing.

c. The assessment shall be imposed on the producer and collected at the time of delivery of a turkey to the 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.

[C73, 75, 77, 79, 81, § 184A.2]

99 Acts, ch 158, §5, 18, 19

Footnotes

Right to refund not subject to execution or transfer; § 179.5A

184A.3 Assessment documentation.

A 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 submit to the council an invoice or other records required by the council to expedite collection of the assessment. The council may require that the processor submit a separate invoice for each purchase. The invoice shall be legibly printed and shall not be altered. An invoice shall include all of the following:

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

b. The name and address of the processor.

c. The number of turkeys sold.

d. The date of the delivery.

[C73, 75, 77, 79, 81, § 184A.3]

99 Acts, ch 158, §6, 18, 19

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 administrative services 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.

[C73, 75, 77, 79, 81, § 184A.4]

94 Acts, ch 1146, § 15; 99 Acts, ch 158, §7, 18, 19; 2003 Acts, ch 145, §286

184A.5 Monthly remittal. Repealed by 99 Acts, ch 158, §17, 19.

184A.6 Use of moneys.

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.

2. The council shall expend moneys from the account first for the payment of expenses for the collection of assessments, and then for the payment of expenses related to conducting a referendum as provided in section 184A.12. The council shall expend remaining moneys for market development, producer education, and the payment of refunds to producers as provided in this chapter.

[C73, 75, 77, 79, 81, § 184A.6]

94 Acts, ch 1146, §16; 99 Acts, ch 158, §8, 18, 19; 2000 Acts, ch 1154, §17

184A.7 Warrants by director. Repealed by 94 Acts, ch 1146, §46.

184A.8 Refund. Repealed by 99 Acts, ch 158, §17, 19.

184A.9 Audit.

Moneys required to be deposited in the turkey council account as provided in section 184A.4 shall be subject to audit by the auditor of state.

[C73, 75, 77, 79, 81, § 184A.9]

94 Acts, ch 1146, §17; 99 Acts, ch 158, §9, 18, 19

184A.10 Referendum.

Upon receipt of a petition signed by at least twenty-five producers requesting an initial referendum election to determine whether to impose the fee as provided in section 184A.2 the secretary shall call and conduct an initial referendum.

[C73, 75, 77, 79, 81, § 184A.10]

184A.11 Notice. Repealed by 99 Acts, ch 158, §17, 19.

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 approves 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 does 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.

[C73, 75, 77, 79, 81, § 184A.12]

99 Acts, ch 158, §10, 18, 19

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 approves 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 does 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.

99 Acts, ch 158, §11, 18, 19

184A.13 Bonds. Repealed by 99 Acts, ch 158, §17, 19.

184A.14 Examination of books.

Any person subject to the provisions of this chapter shall furnish, on forms provided by the council, information required by the council to effectuate the provisions of this chapter. In order to administer this chapter, the 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 a person subject to this chapter and which are not otherwise confidential as provided by law. The council may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas duces tecum in connection with the administration of this section.

[C73, 75, 77, 79, 81, § 184A.14]

99 Acts, ch 158, §12, 18, 19

184A.15 Misdemeanor.

A person is guilty of a simple misdemeanor for willfully violating any provision of this chapter, or for willfully rendering or furnishing a false or fraudulent report, statement, or record required by the council.

[C73, 75, 77, 79, 81, § 184A.15]

99 Acts, ch 158, §13, 18, 19

184A.16 Agreement with processors. Repealed by 99 Acts, ch 158, §17, 19.

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 assessments collected and expended under the provisions of this chapter.

[C73, 75, 77, 79, 81, § 184A.17]

94 Acts, ch 1146, §18; 99 Acts, ch 158, §14, 18, 19

184A.18 Not a state agency.

The council is not a state agency.

[C73, 75, 77, 79, 81, § 184A.18]

99 Acts, ch 158, §15, 18, 19

184A.19 Prohibited activities.

The council 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 honoraria, speeches, or for any other purposes above actual and necessary expenses.

[C73, 75, 77, 79, 81, § 184A.19]

99 Acts, ch 158, §16, 18, 19