CHAPTER 184

IOWA EGG COUNCIL

Referred to in §8A.502, 97B.1A

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184.1 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.
2. *"Council"* means the Iowa egg council.
3. *"Egg 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. However, *"eggs"* does not include any of the following:

a. Fertile eggs that are incubated, hatched, or used for vaccines.

b. Organic eggs which are produced as part of a production operation which is certified by the department pursuant to chapter 190C.

5. *"Eligible voter"* means a producer who is qualified to vote in a referendum conducted under this chapter according to the requirements of section 184.2 or 184.3.
6. *"Market development"* means programs which are directed toward any of the following:

a. Better and more efficient production, marketing, and utilization of eggs or egg products.

b. The maintenance of present markets and the development of new or larger markets for the sale of eggs or egg products.

c. Prevention, modification, or elimination of trade barriers which obstruct the free flow of eggs or egg products in commerce.

7. *"Processor"* means the first purchaser of eggs from a producer, or a person who both produces and processes eggs.
8. *"Producer"* means any person who owns, or contracts for the care of, thirty thousand or more layer-type chickens raised in this state.
9. *"Purchaser"* means a person who resells eggs purchased from a producer or offers for sale a product produced from the eggs for any purpose.
10. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.

[C75, 77, 79, 81, §196A.1]

86 Acts, ch 1245, §641; 94 Acts, ch 1146, §39; 95 Acts, ch 7, §4; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §1, 2, 13

C99, §184.1

2005 Acts, ch 43, §1; 2012 Acts, ch 1017, §50

184.2 Establishment of Iowa egg council and 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 184.3. 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. *a.* Each producer who signs a statement certifying that the producer is a bona fide 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.

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

(1) If a majority of eligible voters approve establishing an Iowa egg 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 and shall continue until eligible voters voting in a referendum held pursuant to section 184.5 vote to abolish the council and terminate the imposition of the assessment.

(2) If a majority of the voters 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 chapter and a majority of the eligible voters approve establishing a council and imposing the assessment. If a referendum should fail, another 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 184.6 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.

[C75, 77, 79, 81, §196A.4]

95 Acts, ch 7, §5; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §3, 13

C99, §184.2

Referred to in §184.1, 184.5

184.3 Assessment.

1. *a.* Except as provided in paragraph *"b"*, an assessment of two and one-half cents is imposed on each thirty dozen eggs produced in this state. The assessment shall be imposed on a producer at the time of delivery to a purchaser who shall deduct the assessment from the price paid to a 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.

b. Upon request of the council, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the assessment to an amount that is more than two and one-half cents imposed on each thirty dozen eggs produced in this state. Notice shall be given and the special referendum shall be conducted in the manner provided in section 184.5. If a majority of the producers voting approves the increase, the council may increase the assessment for the amount approved. However, the assessment shall not exceed fifteen cents imposed on each thirty dozen eggs produced in this state.

2. If the producer sells eggs to a purchaser outside the state of Iowa, the producer shall deduct the assessment 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 assessment to the council within thirty days following each calendar quarter.

3. The council may charge interest on any amount of the assessment that is delinquent.

The rate of interest shall not be more than the current rate published in the Iowa administrative bulletin by the department of revenue pursuant to section 421.7. The interest amount shall be computed from the date the assessment is delinquent, unless the council designates a later date. The interest amount shall accrue for each month in which there is delinquency calculated as provided in section 421.7, and counting each fraction of a month as an entire month. The interest amount due shall become a part of the assessment due.

[C75, 77, 79, 81, §196A.15]
95 Acts, ch 7, §14
CS95, §196A.4A
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §4, 13
C99, §184.3
2000 Acts, ch 1164, §1; 2003 Acts, ch 145, §286; 2005 Acts, ch 43, §2
Referred to in §184.1, 184.2, 184.13

184.4 Invoice required.

1. At the time of sale, the purchaser shall sign and deliver to the producer separate invoices for each purchase. The invoices shall show:

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

b. The name and address of the purchaser.

c. The quantity of eggs sold.

d. The date of the purchase.

e. The rate of withholding and the total amount of assessment withheld.

2. Invoices shall be legibly written and shall not be altered.

[C75, 77, 79, 81, §196A.16]
95 Acts, ch 7, §15
CS95, §196A.4B
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.4
2009 Acts, ch 41, §263

184.5 Referendums conducted to abolish the council and terminate imposition of the assessment.

1. A referendum may be called to abolish the council and terminate the imposition of the assessment. The secretary shall call, and the department shall 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 have paid an assessment in the year of the referendum. 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 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. 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 the producer is an eligible voter, a 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 the total number 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 the total number of eligible voters who vote in the referendum held

pursuant to this section do not approve continuing the council and the imposition of the assessment, the secretary shall terminate the 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 184.2. However, the subsequent referendum shall not be held within one hundred eighty days.

95 Acts, ch 7, §6
CS95, §196A.4C
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §5, 13
C99, §184.5
Referred to in §184.2, 184.3, 184.14

184.6 Composition of council.

The Iowa egg council established under this chapter shall be composed of seven members. Each member must be a natural person who is a resident of this state and a producer or an officer, equity owner, or employee of a producer. A producer shall not be represented by more than two members of 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.
2. The director of the economic development authority.
3. The chairperson of the poultry science section of the department of animal science at Iowa state university of science and technology.

[C75, 77, 79, 81, §196A.5]
95 Acts, ch 7, §7; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §6, 13
C99, §184.6
2003 Acts, ch 15, §1; 2011 Acts, ch 118, §85, 89
Referred to in §184.2

184.7 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.
2. The council shall elect a chairperson, and other officers as needed, from among its voting members.
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.

95 Acts, ch 7, §8
CS95, §196A.5A
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.7
99 Acts, ch 109, §1, 8

184.8 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.
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. The council shall provide a notice of an election for members of the council by any

means deemed reasonable by the council. The notice shall include the period of time for voting, voting places, and any other information determined necessary by the council.

95 Acts, ch 7, §9
CS95, §196A.5B
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §7, 13
C99, §184.8
Referred to in §184.10

184.9 Duties of the council — marketing.

The council shall develop new and expand existing markets for eggs and egg products, and may provide for any of the following:

1. Increasing the utilization of eggs or egg products.
2. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.
3. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

[C75, 77, 79, 81, §196A.11]
95 Acts, ch 7, §10; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §8, 13
C99, §184.9
2005 Acts, ch 43, §3

184.9A Duties of the council — research.

The council shall participate in research programs or projects, including by conducting or financing such programs or projects, relating to any of the following:

1. Increasing the utilization of eggs or egg products.
2. Improving the production or processing of eggs or egg products.
3. Preventing, modifying, or eliminating barriers to trade which obstruct the free flow of eggs or egg products in commerce.

2005 Acts, ch 43, §4

184.9B Duties of the council — education.

The council shall participate in education programs or projects, including by conducting or financing such programs or projects, as follows:

1. The council's education programs or projects may provide for any of the following:

a. The utilization of eggs or egg products.
b. The production or processing of eggs or egg products.
c. The safe consumption of eggs or egg products.
d. The prevention, modification, or elimination of barriers to trade which obstruct the free flow of eggs or egg products in commerce.
e. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.
f. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

2. The council's education programs or projects may be designed to increase consumers' knowledge of the production or processing of eggs, the preparation of eggs or egg products, or the consumption of eggs or egg products.
3. As part of the council's education programs or projects, the council may provide for the dissemination of information of public interest, including but not limited to the development or publication of materials in a printed or electronic format.

2005 Acts, ch 43, §5; 2006 Acts, ch 1010, §59

184.10 Powers of council.

The council may perform any function that it deems necessary to carry out its purposes and duties as provided in this chapter, including but not limited to doing any of the following:

1. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers and fix 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, rescind and amend all proper and necessary rules for the exercise of its powers and duties.

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

5. Receive gifts, rents, royalties, license fees or other moneys for deposit in the Iowa egg fund as provided in section 184.13.

6. Become a dues-paying member of an organization carrying out a purpose related to any of the following:

a. The production or processing of eggs or egg products.

b. The consumption or utilization of eggs or egg products.

7. 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 184.8. The department may assist the council in administering an election, upon request to the secretary by the council.

[C75, 77, 79, 81, §196A.12]
95 Acts, ch 7, §11; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §9, 10, 13
C99, §184.10
99 Acts, ch 109, §2, 3, 8; 2005 Acts, ch 43, §6 – 8

184.11 Prohibited actions.

The Iowa egg council shall not do any of the following:

1. Execute a contract or act as an agent of a person who executes a contract for any of the following:

a. Selling eggs or egg products.

b. Selling equipment used in the manufacturing of egg products.

2. *a.* Make any contribution of council moneys, either directly or indirectly, to any political party or organization or in support of a political candidate for public office.

b. Make payments 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.

[C75, 77, 79, 81, §196A.13]
95 Acts, ch 7, §12; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §11, 13
C99, §184.11
99 Acts, ch 109, §4, 5, 8

184.12 Compensation.

Members of the council may receive payment for their actual expenses and travel in performing official council functions. A voting member of the council shall not be a salaried employee of the council or any organization or agency receiving moneys from the council.

[C75, 77, 79, 81, §196A.14]
95 Acts, ch 7, §13; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.12
99 Acts, ch 109, §6, 8

184.13 Administration of moneys.

Subject to the provisions of section 184.3, the assessment imposed by this chapter shall be remitted by the purchaser to the council not later than thirty days following each calendar quarter during which the assessment was collected. Amounts collected from the assessment shall be deposited in the office of the treasurer of state in a separate fund to be known as the Iowa egg fund. The department of administrative services shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. 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.

[C75, 77, 79, 81, §196A.17]

94 Acts, ch 1146, §40; 95 Acts, ch 209, §22; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13

C99, §184.13

2003 Acts, ch 145, §286

Referred to in §184.10, 184.14

184.14 Use of moneys — appropriation — audit.

1. All moneys deposited in the Iowa egg fund and transferred to the council as provided in section 184.13 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.

2. 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 auditor of state may seek reimbursement for the cost of the audit. The moneys transferred to the council shall be used by the council first for the payment of collection expenses, second for payment of the costs and expenses arising in connection with conducting referendums, third to perform the functions and carry out the duties of the council as provided in this chapter, and fourth for the cost of audits by the auditor of state. Moneys remaining after the council is abolished and the imposition of an assessment is terminated pursuant to a referendum conducted pursuant to section 184.5 shall continue to be expended in accordance with this chapter until exhausted.

[C75, 77, 79, 81, §196A.19]

86 Acts, ch 1100, §24; 89 Acts, ch 137, §3; 94 Acts, ch 1146, §41; 95 Acts, ch 7, §16; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §12, 13

C99, §184.14

2005 Acts, ch 43, §9; 2010 Acts, ch 1189, §32

184.15 Bond required.

The council shall provide a bond for all persons holding positions of trust under this chapter.

[C75, 77, 79, 81, §196A.21]

94 Acts, ch 1146, §42; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13

C99, §184.15

99 Acts, ch 109, §7, 8

184.16 Examination of records.

Persons subject to the provisions of this chapter shall furnish on forms provided by the council any information needed to enable the council to effectuate the policies of this chapter. For the purpose of ascertaining the correctness of any report made to the council under the provisions of this chapter, the secretary may examine books, papers, records, copies of tax returns not confidential by law, and accounts, which are in the control of any person. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas in connection with the administration of this chapter.

[C75, 77, 79, 81, §196A.22]

98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13

C99, §184.16

184.17 Penalty.

Any person who willfully violates any provision of this chapter, willfully gives a false report, statement, or record required by the council, or willfully fails to furnish or render any report, statement or record required by the secretary shall be guilty of a simple misdemeanor.

[C75, 77, 79, 81, §196A.23]

98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13

C99, §184.17

184.18 Purchasers outside Iowa.

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

[C75, 77, 79, 81, §196A.24]

95 Acts, ch 7, §17; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13

C99, §184.18

184.19 Not a state agency.

The Iowa egg council is not an agency of state government.

93 Acts, ch 102, §3

CS93, §196A.14A

CS95, §196A.26

98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13

C99, §184.19