

Illinois Beef Market Development Act

AGRICULTURE

(505 ILCS 25/) Beef Market Development Act.

(505 ILCS 25/1) (from Ch. 5, par. 1401)

Sec. 1. Legislative intent. The legislature intends by this Act: to promote the growth of the cattle industry in Illinois, to assure the State and American public an adequate and wholesome food supply and to provide for the general economic welfare of both producers and consumers of beef and the State of Illinois; and to provide the beef cattle production and feeding industry of this State with authority to establish a self-financed, self-governed program to help develop, maintain and expand the State, national and foreign markets for beef and beef products produced, processed or manufactured in this State.

(Source: P.A. 90-655, eff. 7-30-98.)

(505 ILCS 25/2) (from Ch. 5, par. 1402)

Sec. 2. Definitions. In this Act, unless the context otherwise requires:

(a) "Beef" and "Beef products" means the meat intended for human consumption from any bovine animal, regardless of age, including veal.

(b) "Cattle" means such animals as may be so designated by federal law, including such marketing, promotion and research orders as may from time to time be in effect. Unless such federal law provides to the contrary, "cattle" means all bovine animals, regardless of age, including calves, except that cattle provided for dairy purposes shall be excluded during their useful life as dairy animals. A cow and nursing calf sold together shall be considered one unit.

(c) "Checkoff Division" means the Checkoff Division of the Illinois Beef Association Board of Governors.

(d) "Person" means any natural person, partnership, corporation, company, association, society, trust or other business unit or organization.

(e) "Market Agent", "Market Agency", "Collection Agent" or "Collection Agency" means any person who sells, offers for sale, markets, distributes, trades or processes cattle which has been purchased or acquired from a producer, or which is marketed on behalf of a producer, and further includes meatpacking firms and their agents which purchase or consign to purchase cattle.

(f) "Director" means a member of the Checkoff Division.

(g) "Board" means the elected members of the Checkoff Division.

(h) "Producer" means a person that has owned or sold cattle in the previous calendar year or presently owns cattle.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/3) (from Ch. 5, par. 1403)

Sec. 3. Name and purposes.

(a) The name of the program created and organized by this Act shall be the Illinois Beef Association Checkoff Division.

(b) The purposes and objectives of the program shall include:

(1) To promote the sale and use of beef and beef products and to support national beef promotion, research, education, and other consumer marketing activities at a funding level to be determined by the Checkoff Division and to otherwise support consumer market development and promotion efforts on a national or international scale;

(2) To develop new uses and markets for beef and beef products;

(3) To develop and improve methods of distributing beef and beef products to the consumer;

(4) To develop methods of improving the quality of beef and beef products for the consumer benefit;

(5) To inform and educate the public of the nutritive and economic values of beef and beef products;

(6) To function in a liaison capacity within the beef and other food industries of the State and elsewhere in matters that would increase efficiencies which ultimately benefit both consumer and industry.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/4) (from Ch. 5, par. 1404)

Sec. 4. Governing board. With a favorable vote of beef producers in the State of Illinois to support an assessment/deduction rate, as determined by referendum, per head of cattle sold in Illinois to finance the intent and purpose of this Act, there shall be created a Checkoff Division governed by a board of directors of 14 members. Two directors shall be elected by beef producers from each of seven compact and contiguous districts, apportioned as nearly

as practicable according to the cattle-on-farms census report taken from the latest available United States Department of Agriculture records.

No county in Illinois shall be apportioned in more than one district. The seven districts shall be re-apportioned by the Checkoff Division every 9 years, according to the latest available United States Department of Agriculture cattle-on-farms census records. An elected director shall not become ineligible to serve his or her elected term through any re-apportionment.

Term of office. The 14 directors shall be elected to serve a three year term and may be reelected to serve an additional consecutive term. An elected director shall be a resident of Illinois, and shall be a beef producer who has been a beef producer for at least the 5 years prior to his or her election. A qualified beef producer may be elected to serve on the board only if he or she has submitted, by registered mail to the Checkoff Division office, a nominating petition containing signatures of more than 50 beef producers from the district he or she may seek to represent. Only the 2 candidates receiving the greatest number of votes cast from that district shall be elected.

On the first elected board of directors, one term of office from each district shall be limited to two years; the two year term to be determined by lottery at the first meeting of the Checkoff Division. No member may serve more than two consecutive terms.

All Checkoff Division board positions shall be unsalaried. However, the board members may be reimbursed for travel and other expenses incurred in carrying out the intent and purposes of this Act.

It shall be the responsibility of the Checkoff Division to conduct the election of new board members within 30 days before the end of any elected board member's term of office. Newly elected board members shall assume their office at the first meeting of the Checkoff Division after their election to office, which shall be convened within 30 days after the election. Notice of such meeting shall be sent to the members of the Checkoff Division by certified mail at least 10 days prior thereto, stating the time, date and place of the meeting.

Notice of elections of members of the board shall be given at least once in trade publications, the public press, and statewide newspapers at least 30 days prior to such election.

The Checkoff Division may declare the office of a board member vacant and appoint a beef producer from that district to serve the unexpired term of any member unable or unwilling to complete his or her term of office.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/5) (from Ch. 5, par. 1405)

Sec. 5. Referendums. All beef producers in the State of Illinois shall have the opportunity to vote in a referendum to determine the amount of deductions from the gross receipts of the sale of cattle in the State of Illinois to be used to finance the provisions of this Act.

All referendums under this Section may be by secret ballot at geographically located polling places or conducted in any other manner that will make it easy to vote throughout the State including voting by mail. There shall be more than one day for beef producers to cast their ballots. Notice of all referendums held under this Act shall be given at least once in trade publications, the public press and statewide newspapers at least 30 days prior to such referendum.

Referendums to increase the amount of deductions from the gross receipts of the sale of cattle in Illinois, shall not be conducted more than one time each five years.

Each cattle producer shall be entitled to only one vote in any referendum held under this Act.

(Source: P.A. 88-571, eff. 8-11-94.)

(505 ILCS 25/6) (from Ch. 5, par. 1406)

Sec. 6. Powers and duties of the Checkoff Division.

(a) The Checkoff Division shall:

(1) Receive and disburse funds, as prescribed elsewhere in this Act, to be used in administering and implementing the provisions and intent of this Act;

(2) Annually elect a Chairman from among its members who may succeed himself for not more than one term;

(3) Annually elect a Secretary-Treasurer from among its members;

(4) Meet regularly, not less often than one time each calendar quarter or at such other times as called by the Chairman, or when requested by four or more members of the Checkoff Division;

(5) Maintain a permanent record of its business proceedings;

(6) Maintain a permanent and detailed record of its financial dealings;

(7) Prepare periodic reports and an annual report of its activities for the fiscal year, for review of the beef industry of the State, and the annual report is to be filed with the Illinois Director of Agriculture;

(8) Prepare periodic reports and an annual accounting for the fiscal year of all receipts and expenditures for review of the beef industry of the State, and shall retain a certified public accountant for this purpose;

(9) Appoint a licensed banking institution as the depository for program funds and disbursements;

(10) Maintain frequent communication with officers and industry representatives of the National Livestock and Meat Board.

(11) Maintain an office at a specific location in Illinois.

(b) The Checkoff Division may:

(1) Conduct or contract for scientific research with any accredited university, college or similar institution; and, enter into other contracts or agreements which will aid in carrying out the purposes of the program, including contracts for the purchase or acquisition of facilities or equipment necessary to carry out the purposes of the program;

(2) Disseminate reliable information benefiting the consumer and the beef industry on such subjects as, but not limited to, purchase, identification, care, storage, handling, cookery, preparation, serving and nutritive value of beef and beef products;

(3) Provide information to such various government bodies as request it, on subjects of concern to the beef industry; and further, act jointly or in cooperation with the State or Federal government, and agencies thereof, in the development or administration of programs deemed by the Checkoff Division as consistent with the objectives of the programs;

(4) Sue and be sued as a Checkoff Division without individual liability of the members for acts of the Checkoff Division when acting within the scope of the powers of this Act, and in the manner prescribed by the laws of the State;

(5) Borrow money from licensed lending institutions in amounts which are not cumulatively greater than 50% of anticipated annual income;

(6) Maintain a financial reserve for emergency use, the total of which shall not exceed 50% of anticipated annual income;

(7) Appoint advisory groups composed of representatives from organizations, institutions, governments or business related to or interested in the welfare of the beef industry and the consuming public;

(8) Employ subordinate officers and employees of the Checkoff Division and prescribe their duties and fix their compensation and terms of employment;

(9) Cooperate with any local, State, regional or nationwide organization or agency engaged in work or activities consistent with the objectives of the program.

(10) Cause any duly authorized agent or representative to enter upon the premises of any market agency, market agent, collection agent, or collection agency and examine or cause to be examined by such agent only books, papers, and records which deal in any way with respect to the payment of the assessment/deduction or enforcement of this Act. (Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/7) (from Ch. 5, par. 1407)

Sec. 7. Acceptance of grants and gifts. (a) The Checkoff Division may accept grants, donations, contributions or gifts from any source, provided the use of such resources is not restricted in any manner which is deemed inconsistent with the objectives of the program.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/8) (from Ch. 5, par. 1408)

Sec. 8. Payments to organizations.

(a) As described heretofore, the Checkoff Division may pay funds to other organizations for work or services performed which are consistent with the objectives of the program.

(b) Prior to making payments described in this Section, the Checkoff Division shall secure agreements in writing that such organization receiving payment shall:

(1) Furnish not less often than annual, or on request of the Checkoff Division, written or printed reports of program activities and reports of financial data which are relative to the Checkoff Division's funding of such activities;

(2) Agree to have appropriate representatives attend business meetings of the Checkoff Division as reasonably requested by the Chairman of the Checkoff Division.

(c) The Checkoff Division may require adequate proof of security bonding on funds paid to any individual, business or other organizations.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/9) (from Ch. 5, par. 1409)

Sec. 9. Collection of monies at time of marketing.

(a) Every marketing agency licensed to do business in the State of Illinois shall deduct from the gross receipts of the seller, at the time of sale, an assessment established by referendum, as recommended by the Checkoff Division, on all cattle marketed in the State in addition to any assessment for a National Promotion Research Program, created by federal law, which may be in effect.

(b) The collecting agent shall assemble all such monies and forward them to the Checkoff Division on a regular basis, not less often than monthly, and the Checkoff Division shall provide appropriate business forms for the convenience of the collecting agent in executing this duty.

Failure of the collecting agent to deduct or forward funds under this Section is grounds for the Checkoff Division to request the Department of Agriculture to suspend or refuse to issue the collecting agent's licenses issued under the Livestock Auction Market Law or Livestock Dealer Licensing Act.

(c) The Checkoff Division shall maintain within its financial record a separate accounting of all monies received under the provisions of this Section.

(d) Any due and payable assessment/deduction required under this Act constitutes a personal debt of the person so assessed or who otherwise owes the assessment/deduction. In the event of failure of a person to remit any properly due assessment/deduction or sum, the Checkoff Division may bring a civil action against that person in the circuit court of any county for the collection thereof, and may add an additional 10% penalty assessment, cost of enforcing the collection of the assessment, and court costs. The action shall be tried and judgment rendered as in any other cause of action for debts due and payable. All assessments, penalty assessments, and enforcement costs are due and payable to the Checkoff Division.

(e) All monies deducted under the provisions of this Section shall be considered as bonafide business expenses for the seller as provided for under the tax laws of this State.

(f) The Checkoff Division may adopt reciprocal agreements with other Beef Councils or like organizations, on moneys collected at Illinois collecting agencies on cattle from other states and on Illinois cattle sold at other state markets.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/10) (from Ch. 5, par. 1410)

Sec. 10. Refunds.

(a) Any seller of cattle who has had monies deducted from his gross sales receipts under the provisions of this Act, shall be entitled to a prompt and full refund. Any seller of cattle who has had monies deducted from his gross sale receipts under the provisions of the Federal Beef Promotion and Research Order, as amended from time to time, shall be entitled to receive a refund which may be made in a manner consistent with the coordination of this Act and the National Beef Promotion Research Program for such time as such Program may be in effect.

(b) The Checkoff Division shall make available to all collecting agents business forms permitting requests for refund, such forms to be submitted by the objecting cattle producer or owner within 30 days of the sale transaction.

(c) Refund claims by the cattle producer or owner shall include his signature, date of sale, place of sale, number of cattle and amount of assessment deducted, and shall have attached thereto proof of the assessment deducted.

(d) If the Checkoff Division has reasonable doubt that a refund claim is valid, it may withhold payment and take such action as may be deemed necessary to determine its validity.

(e) All requests for refunds shall be initiated by the producer only.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/11) (from Ch. 5, par. 1411)

Sec. 11. Surety bond.

(a) Any person authorized by the Checkoff Division to receive or disburse funds, as provided by the Act, shall post with the Checkoff Division a surety bond in the amount deemed appropriate by the Checkoff Division.

(b) Premiums covering bonding for employees, officers or members of the Checkoff Division shall be paid by the Checkoff Division.

(c) No person shall knowingly fail or refuse to comply with any requirement of this Act. The Checkoff Division may institute any action which is necessary to enforce compliance with any provision of this Act and rule or regulation thereunder. Each day's violation constitutes a separate offense. In addition to any other remedy provided by law, the Checkoff Division may petition for injunctive relief without being required to allege or prove the absence of any adequate remedy at law.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/13) (from Ch. 5, par. 1413)

Sec. 13. With the delivery by certified mail to the Checkoff Division office of petitions from each of the 7 districts containing signatures of at least 100 beef producers from each district, stating "Shall the Beef Market Development Act continue", the Checkoff Division shall, within 90 days, conduct a referendum to determine if a majority of the beef producers voting in such referendum support the continuation of the Beef Market Development Act. Referendums under this Section shall be held not more than one time each 5 years.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/14) (from Ch. 5, par. 1414)

Sec. 14. Bylaws. The Checkoff Division shall adopt bylaws to carry out the intent and purposes of this Act. These bylaws can be amended with a 30 day notice to board members at any regular or special meeting called for this purpose.

(Source: P.A. 99-389, eff. 8-18-15.)

(505 ILCS 25/16) (from Ch. 5, par. 1416)

Sec. 16. Short title. This Act may be known and cited as the "Beef Market Development Act".

(Source: P.A. 83-84.)