



Sen. John M. Sullivan

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1 AMENDMENT TO HOUSE BILL 3101

2 AMENDMENT NO. _____. Amend House Bill 3101 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Livestock Auction Market Law is amended by
5 changing Section 6.2 as follows:

6 (225 ILCS 640/6.2) (from Ch. 121 1/2, par. 213b)

7 Sec. 6.2. The Department may refuse to issue or may suspend
8 the license of any person upon the complaint in writing from
9 the Checkoff Division of the Illinois Beef Association Board of
10 Governors ~~Illinois Beef Council~~ indicating that the person has
11 failed to properly remit or deduct funds as required by Section
12 9 of the Beef Market Development Act.

13 (Source: P.A. 87-172.)

14 Section 10. The Illinois Livestock Dealer Licensing Act is
15 amended by changing Sections 9 and 9.2 as follows:

1 (225 ILCS 645/9) (from Ch. 111, par. 409)

2 Sec. 9. The Department may refuse to issue or renew or may
3 suspend or revoke a license on any of the following grounds:

4 a. Material misstatement in the application for original
5 license or in the application for any renewal license under
6 this Act;

7 b. Wilful disregard or violation of this Act, or of any
8 other Act relative to the purchase and sale of livestock,
9 feeder swine or horses, or of any regulation or rule issued
10 pursuant thereto;

11 c. Wilfully aiding or abetting another in the violation of
12 this Act or of any regulation or rule issued pursuant thereto;

13 d. Allowing one's license under this Act to be used by an
14 unlicensed person;

15 e. Conviction of any felony, if the Department determines,
16 after investigation, that such person has not been sufficiently
17 rehabilitated to warrant the public trust;

18 f. Conviction of any crime an essential element of which is
19 misstatement, fraud or dishonesty;

20 g. Conviction of a violation of any law in Illinois or any
21 Departmental rule or regulation relating to livestock;

22 h. Making substantial misrepresentations or false promises
23 of a character likely to influence, persuade or induce in
24 connection with the livestock industry;

25 i. Pursuing a continued course of misrepresentation of or

1 making false promises through advertising, salesmen, agents or
2 otherwise in connection with the livestock industry;

3 j. Failure to possess the necessary qualifications or to
4 meet the requirements of this Act for the issuance or holding a
5 license;

6 k. Failure to pay for livestock after purchase;

7 l. Issuance of checks for payment of livestock when funds
8 are insufficient;

9 m. Determination by a Department audit that the licensee or
10 applicant is insolvent;

11 n. Operating without adequate bond coverage or its
12 equivalent required for licensees.

13 (o) Failing to remit the assessment required in Section 9
14 of the Beef Market Development Act upon written complaint of
15 the Checkoff Division of the Illinois Beef Association Board of
16 Governors ~~Illinois Beef Council~~.

17 The Department may refuse to issue or may suspend the
18 license of any person who fails to file a return, or to pay the
19 tax, penalty or interest shown in a filed return, or to pay any
20 final assessment of tax, penalty or interest, as required by
21 any tax Act administered by the Illinois Department of Revenue,
22 until such time as the requirements of any such tax Act are
23 satisfied.

24 (Source: P.A. 87-172.)

25 (225 ILCS 645/9.2) (from Ch. 111, par. 409.2)

1 Sec. 9.2. The Department may refuse to issue or may suspend
2 the license of any person upon the complaint in writing from
3 the Checkoff Division of the Illinois Beef Association Board of
4 Governors Illinois Beef Council indicating that the person has
5 failed to properly remit or deduct funds as required by Section
6 9 of the Beef Market Development Act.

7 (Source: P.A. 87-172)

8 Section 15. The Beef Market Development Act is amended by
9 changing Sections 2, 3, 4, 6, 7, 8, 9, 10, 11, 13, and 14 as
10 follows:

11 (505 ILCS 25/2) (from Ch. 5, par. 1402)

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

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

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

1 (c) "Checkoff Division" means the Checkoff Division of the
2 Illinois Beef Association Board of Governors. ~~"Council" means~~
3 ~~the operating committee established under this Act to~~
4 ~~administer and govern the program.~~

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

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

15 (f) "Director" means a member of the Checkoff Division
16 ~~Illinois Beef Council.~~

17 (g) "Board" means the elected members of the Checkoff
18 Division ~~Illinois Beef Council.~~

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

21 (Source: P.A. 84-1273; 84-1276.)

22 (505 ILCS 25/3) (from Ch. 5, par. 1403)

23 Sec. 3. Name and purposes.

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

1 ~~Illinois Beef Council.~~

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

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

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

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

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

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

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

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

24 (505 ILCS 25/4) (from Ch. 5, par. 1404)

25 Sec. 4. Governing board. With a favorable vote of beef

1 producers in the State of Illinois to support an
2 assessment/deduction rate, as determined by referendum, of up
3 ~~to 50¢~~ per head of cattle sold in Illinois to finance the
4 intent and purpose of this Act, there shall be created a
5 Checkoff Division ~~an Illinois Beef Council~~ governed by a board
6 of directors of 14 members. Two directors shall be elected by
7 beef producers from each of seven compact and contiguous
8 districts, apportioned as nearly as practicable according to
9 the cattle-on-farms census report taken from the latest
10 available United States Department of Agriculture records.

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

18 Term of office. The 14 directors shall be elected to serve
19 a three year term and may be reelected to serve an additional
20 consecutive term. An elected director shall be a resident of
21 Illinois, and shall be a beef producer who has been a beef
22 producer for at least the 5 years prior to his or her election.
23 A qualified beef producer may be elected to serve on the board
24 only if he or she has submitted, by registered mail to the
25 Checkoff Division ~~Illinois Beef Council~~ office, a nominating
26 petition containing signatures of more than 50 beef producers

1 from the district he or she may seek to represent. Only the 2
2 candidates receiving the greatest number of votes cast from
3 that district shall be elected.

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

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

13 It shall be the responsibility of the Checkoff Division
14 ~~Council~~ to conduct the election of new board members within 30
15 days before the end of any elected board member's term of
16 office. Newly elected board members shall assume their office
17 at the first meeting of the Checkoff Division ~~Council~~ after
18 their election to office, which shall be convened within 30
19 days after the election. Notice of such meeting shall be sent
20 to the members of the Checkoff Division ~~Illinois Beef Council~~
21 by certified mail at least 10 days prior thereto, stating the
22 time, date and place of the meeting.

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

26 The Checkoff Division ~~Council~~ may declare the office of a

1 board member vacant and appoint a beef producer from that
2 district to serve the unexpired term of any member unable or
3 unwilling to complete his or her term of office.

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

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

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

7 (a) The Checkoff Division Council shall:

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

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

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

15 (4) Meet regularly, not less often than one time each
16 calendar quarter or at such other times as called by the
17 Chairman, or when requested by four or more members of the
18 Checkoff Division Council, ~~all meetings to be held under the~~
19 ~~Open Meetings Act of the State of Illinois;~~

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

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

24 (7) Prepare periodic reports and an annual report of its
25 activities for the fiscal year, for review of the beef industry

1 of the State, and the annual report is to be filed with the
2 Illinois Director of Agriculture;

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

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

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

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

13 (b) The Checkoff Division ~~Council~~ may:

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

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

25 (3) Provide information to such various government bodies
26 as request it, on subjects of concern to the beef industry; and

1 further, act jointly or in cooperation with the State or
2 Federal government, and agencies thereof, in the development or
3 administration of programs deemed by the Checkoff Division
4 ~~Council~~ as consistent with the objectives of the programs;

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

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

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

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

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

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

26 (10) Cause any duly authorized agent or representative to

1 enter upon the premises of any market agency, market agent,
2 collection agent, or collection agency and examine or cause to
3 be examined by such agent only books, papers, and records which
4 deal in any way with respect to the payment of the
5 assessment/deduction or enforcement of this Act.

6 (Source: P.A. 84-343; 84-584.)

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

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

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

14 (505 ILCS 25/8) (from Ch. 5, par. 1408)

15 Sec. 8. Payments to organizations. (a) As described
16 heretofore, the Checkoff Division Council may pay funds to
17 other organizations for work or services performed which are
18 consistent with the objectives of the program.

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

22 (1) Furnish not less often than annual, or on request of
23 the Checkoff Division Council, written or printed reports of
24 program activities and reports of financial data which are

1 relative to the Checkoff Division's ~~Council's~~ funding of such
2 activities;

3 (2) Agree to have appropriate representatives attend
4 business meetings of the Checkoff Division ~~Council~~ as
5 reasonably requested by the Chairman of the Checkoff Division
6 ~~Council~~.

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

10 (Source: P.A. 84-343; 84-584.)

11 (505 ILCS 25/9) (from Ch. 5, par. 1409)

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

13 (a) Every marketing agency licensed to do business in the
14 State of Illinois shall deduct from the gross receipts of the
15 seller, at the time of sale, an assessment established by
16 referendum ~~up to 50¢ per head~~, as recommended by the Checkoff
17 Division ~~Council~~, on all cattle marketed in the State in
18 addition to any assessment for a National Promotion Research
19 Program, created by federal law, which may be in effect.

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

25 Failure of the collecting agent to deduct or forward funds

1 under this Section is grounds for the Checkoff Division Council
2 to request the Department of Agriculture to suspend or refuse
3 to issue the collecting agent's licenses issued under the
4 Livestock Auction Market Law or Livestock Dealer Licensing Act.

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

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

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

24 (f) The Checkoff Division Council may adopt reciprocal
25 agreements with other Beef Councils or like organizations, on
26 moneys collected at Illinois collecting agencies on cattle from

1 other states and on Illinois cattle sold at other state
2 markets.

3 (Source: P.A. 87-172; 88-571, eff. 8-11-94.)

4 (505 ILCS 25/10) (from Ch. 5, par. 1410)

5 Sec. 10. Refunds. (a) Any seller of cattle who has had
6 monies deducted from his gross sales receipts under the
7 provisions of this Act, shall be entitled to a prompt and full
8 refund. Any seller of cattle who has had monies deducted from
9 his gross sale receipts under the provisions of the Federal
10 Beef Promotion and Research Order, as amended from time to
11 time, shall be entitled to receive a refund which may be made
12 in a manner consistent with the coordination of this Act and
13 the National Beef Promotion Research Program for such time as
14 such Program may be in effect.

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

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

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

1 validity.

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

4 (Source: P.A. 84-1273; 84-1276.)

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

6 Sec. 11. Surety bond. (a) Any person authorized by the
7 Checkoff Division Council to receive or disburse funds, as
8 provided by the Act, shall post with the Checkoff Division
9 Council a surety bond in the amount deemed appropriate by the
10 Checkoff Division Council.

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

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

23 (Source: P.A. 84-343; 84-584.)

24 (505 ILCS 25/13) (from Ch. 5, par. 1413)

1 Sec. 13. With the delivery by certified mail to the
2 Checkoff Division ~~Illinois Beef Council~~ office of petitions
3 from each of the 7 districts containing signatures of at least
4 100 beef producers from each district, stating "Shall the Beef
5 Market Development Act continue", the Checkoff Division
6 ~~Illinois Beef Council~~ shall, within 90 days, conduct a
7 referendum to determine if a majority of the beef producers
8 voting in such referendum support the continuation of the Beef
9 Market Development Act. Referendums under this Section shall be
10 held not more than one time each 5 years.

11 (Source: P.A. 91-357, eff. 7-29-99.)

12 (505 ILCS 25/14) (from Ch. 5, par. 1414)

13 Sec. 14. Bylaws. The Checkoff Division ~~Illinois Beef~~
14 ~~Council~~ shall ~~within 90 days of this Act becoming law,~~ adopt
15 bylaws to carry out the intent and purposes of this Act. These
16 bylaws can be amended with a 30 day notice to board members at
17 any regular or special meeting called for this purpose.

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."