



## Arkansas Beef Promotion Statutes

Ark. Code Ann. §§ 2-35-301 through -310

Ark. Code Ann. §§ 2-35-401 through -407

*Current through 2012 Fiscal Sess. and the Nov. 6, 2012 election*

### **§ 2-35-301. Objective**

The purpose of this subchapter is to promote the growth and development of the beef cattle industry in Arkansas by research, promotion, and market development and thereby promote the general welfare of the people of Arkansas.

### **§ 2-35-302. Penalty**

(a)(1) A buyer who fails to file a report or pay any assessment within a required time set by the Director of the Department of Finance and Administration shall forfeit to the director a penalty of five percent (5%) of the assessment determined to be due plus one percent (1%) for each month of delay, or fraction of a month, after the first month after the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the director and shall be disposed of by him or her in the same manner as funds derived from payment of assessments imposed in this subchapter.

(b) The director shall collect the penalty levied in this section, together with the delinquent assessment, by any or all of the following methods:

(1) Voluntary payment by the person liable;

(2) Legal proceedings instituted in a court of competent jurisdiction; or

(3) Injunctive relief to enjoin any buyer owing the assessment or penalty from operating his or her business or engaging in business as a buyer of cattle until the delinquent assessment or penalty is paid.

(c) Any person required to pay the assessment provided for in this subchapter who refuses to allow full inspection of the records relating to the liability of the person for the assessment imposed in this subchapter or who shall hinder or in any way delay or prevent inspection shall be guilty of a violation and upon conviction shall be punished by a fine not exceeding five hundred dollars (\$500).

### **§ 2-35-303. Establishment; membership**

(a) The Arkansas Beef Council is created.

(b)(1) The council shall be composed of seven (7) members appointed by the Governor and confirmed by the Senate as follows:

(A) Three (3) cattle producer members shall represent the Arkansas Farm Bureau Federation and shall be appointed from a list of names submitted by the board of directors of that organization;

(B) Three (3) cattle producer members shall represent the Arkansas Cattlemen's Association and shall be appointed from a list of names submitted by the board of directors of that organization; and

(C) One (1) member shall be an active Arkansas livestock market operator who shall be

appointed from the state at large.

(2) Each year, not less than thirty (30) days prior to the expiration of the terms of the current council members whose terms expire in that year, the organizations named shall submit to the Governor two (2) nominees for each position to be filled on the council from the respective organizations. The Governor shall appoint a succeeding member to the council from each organization's list of nominees.

(3) Each member selected shall serve for a term of three (3) years and until his or her successor is duly selected as provided in this section.

(4) Vacancies in any unexpired term shall be filled by the Governor for the remainder of the unexpired term. The member appointed to fill the vacancy shall represent the same organization as the person whose term is unexpired.

(c) Members of the council shall meet and organize immediately after their appointment and shall elect a chair, a vice chair, and a secretary-treasurer from the membership of the council whose duties shall be those customarily exercised by those officers or specifically designated by the council.

(d) The council may establish rules and regulations for its own government and for the administration of the affairs of the council.

#### **§ 2-35-304. Assessment; election**

(a)(1) Within ninety (90) days after February 14, 1983, the Arkansas Beef Council shall cause an election to be held on the question of the levy of an assessment of twenty-five cents (25¢) per head on all cattle sold in the state.

(2) The election shall be held at the offices of the county Agricultural Stabilization and Conservation Services in each county in the state.

(3) The council shall set the date for conducting the election in each county, shall furnish ballots for the election, and shall prescribe voting procedures for the election.

(4) Each cattle owner or producer who owned or produced cattle in the year immediately preceding the election may vote in the election.

(b)(1) If a majority of the cattle owners and producers in the state voting at the election vote for the levy of an assessment of twenty-five cents (25¢) per head on cattle sold in the state, the assessment shall be applicable to all sales made on and after a date specified by the council. The date shall not be later than ninety (90) days after certification of the results of the election.

(2) The assessment shall be a continuing levy until either terminated by the council or until another election is held at which a majority of the cattle owners and producers in the state vote against the levy.

(c)(1) When petitions containing the signatures of twenty percent (20%) of the cattle owners and producers in the state, as determined by the latest available agricultural census, are filed with the council requesting that the question of continuing the per-head assessment be submitted to a vote of the cattle owners and producers, the council shall cause an election to be held within ninety (90) days after the filing of the petitions.

(2) The election shall be conducted in the same manner as the initial election held on the question of the levy of the assessment.

(3) If a majority of the owners and producers voting at the election vote against the levy of the assessment, the assessment shall not be levied unless and until the levy is thereafter approved at an election called by the council.

(d) If the federal Beef Promotion and Research Act of 1985 and the administrative orders and rules adopted under it are discontinued for any reason, the assessment of twenty-five cents (25¢) per head of cattle sold in this state shall be reactivated the same as if the national program had never existed, and there is levied without any election an additional assessment of seventy-five cents (75¢) per head

of cattle sold in this state to be collected as provided in § 2-35-305 and disposed of as provided in § 2-35-308.

(e)(1) Within ninety (90) days after beginning the collection of the seventy-five-cent assessment, the council shall cause an election to be held on the question of the levy of an assessment of seventy-five cents (75¢) per head on all cattle sold in the state.

(2) The election shall be held in the manner prescribed in subsections (a)-(c) of this section.

(f)(1) If a majority of the cattle owners and producers in the state voting at the election vote for the levy of the additional seventy-five cents (75¢) per head on cattle sold in the state, the assessment shall continue until either terminated by the council or until another election is held at which a majority of the cattle owners and producers in the state vote against the levy.

(2) If a majority of the cattle owners and producers in the state voting at the election vote against the levy of the additional seventy-five cents (75¢) per head on cattle sold in the state, the assessment shall be discontinued and shall not be levied again unless and until the levy is thereafter approved at an election called by the council.

#### **§ 2-35-305. Collection of assessment**

(a)(1) The assessment levied pursuant to this subchapter shall be collected by each purchaser of cattle in Arkansas, whether or not the purchaser is a resident of Arkansas.

(2) Each purchaser shall monthly report and remit the assessments collected to the Director of the Department of Finance and Administration at the time, in the manner, and on forms prescribed by the director.

(b) For purposes of this subchapter, purchasers or buyers of cattle shall include, but not be limited to:

(1) Livestock auction markets

(2) Packers;

(3) Order buyers, who are registered or licensed, buying on order and not through a public market; and

(4) Individual organizations, groups, or firms, in the case of organized sales, special sales, breed association sales, and feeder calf sales.

#### **§ 2-35-306. Rules and regulation; records; reports**

(a) The Director of the Department of Finance and Administration is authorized and directed to adopt appropriate rules and regulations regarding records to be kept by cattle buyers and regarding reporting and remittance of the assessment levied in this subchapter and to prescribe forms upon which reports are to be made.

(b) The director may, by regulation, require the reports to contain such information as he or she shall deem necessary or appropriate to assure the proper enforcement of this subchapter and the efficient and effective collection of the assessment levied pursuant to it.

#### **§ 2-35-307. Inspection of information**

(a) Records maintained by cattle buyers pursuant to the requirements of this subchapter or regulations of the council adopted pursuant to it shall be made available for inspection at any reasonable time upon written request by the Director of the Department of Finance and Administration or any duly authorized agent or representative.

(b) Buyers, at such times as the director may require, shall submit reports or other documents containing information deemed necessary for the efficient collection of the assessment imposed in this subchapter.

(c) The director shall have the power to cause any duly authorized agent or representative to enter at reasonable times upon the premises of buyers of cattle and examine or cause to be examined by the

agent any records which may pertain to the payment of the assessment or enforcement of the provisions of this subchapter.

**§ 2-35-308. Funds**

(a) The Director of the Department of Finance and Administration shall deposit all assessments and penalties collected pursuant to this subchapter in the State Treasury.

(b)(1) After deducting three percent (3%) for credit to the Constitutional and Officers Fund and the State Central Services Fund, the Treasurer of State shall credit the remainder to the Arkansas Beef Council Fund, which is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State.

(2) All funds so credited to the Arkansas Beef Council Fund shall be used in such manner as the council deems appropriate for:

- (A) Arkansas beef promotion and research;
- (B) The operation and maintenance of the council office; and
- (C) Payment of expenses of the board members in accordance with § 25-16-901 et seq.

**§ 2-35-309. Cattle industry enhancement**

(a) The Arkansas Beef Council shall plan and conduct or cause to be conducted a program of promotion, market development, research, or related beef activities designed to enhance the cattle industry in Arkansas.

(b)(1) The council is authorized to use the funds derived from the assessment imposed in this subchapter for these purposes, including basic administration expenses of the plan.

(2) Use of these funds may be applied as prescribed in this section within or without the State of Arkansas, including regional, national, and international applications.

(3) The funds may also be used to defray costs of referenda.

**§ 2-35-310. Cattle producer refunds**

Any cattle producer may request and receive a refund of the amount deducted from the sale of his or her cattle if he or she makes a written application with the Director of the Department of Finance and Administration within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the buyer and, if the application is filed before the annual accounting is made of the funds, not later than July 1 each year.

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**§ 2-35-401. Objective**

(a) It is found and determined by the General Assembly that:

(1) The Arkansas law which creates the Arkansas Beef Council authorizes an assessment of twenty-five cents (25¢) per head on all cattle sold in the state;

(2) Since the enactment of the Arkansas law, the United States Congress and the United States Department of Agriculture have established a national beef promotion and research program under which there is an assessment of one dollar (\$1.00) per head on all cattle sold;

(3) Under the national program, a qualified state beef council is authorized to retain fifty cents (50¢) of each one dollar (\$1.00) per head assessment for financing a state beef promotion and research program if authorized by state law;

(4) The one dollar (\$1.00) per head national assessment is currently required to be collected but is subject to a referendum within twenty-two (22) months after the issuance of the beef promotion and research order by the United States Secretary of Agriculture;

(5) It is essential that appropriate legislation be enacted in Arkansas to provide for the collection of the one dollar (\$1.00) per head assessment and the retention by the state of fifty cents (50¢) of each one dollar (\$1.00) assessment during the interim from the date of the order until the referendum process is completed and thereafter in the event the producers voting at the referendum approve a continuation of the assessment; to further assure that in the event the producers voting at the referendum vote against continuing the one dollar (\$1.00) per head assessment, the present Arkansas law providing for an assessment of twenty-five cents (25¢) per head will be automatically reactivated.

(b) Therefore, it is the intent and purpose of this subchapter to suspend the collection of the twenty-five cents (25¢) per head assessment provided for in § 2-35-301 et seq. and to provide for the collection of the one dollar (\$1.00) per head national assessment levied for beef promotion and research so long as the national program continues in effect, with fifty cents (50¢) of the assessment to be retained for the Arkansas Beef Council, and to provide that if the producers voting at the referendum provided for in the Beef Promotion and Research Act of 1985<sup>1</sup> and the administrative order issued pursuant thereto vote to discontinue the one dollar (\$1.00) per head national assessment, then the provisions of § 2-35-301 et seq. and the assessment of twenty-five cents (25¢) per head of cattle sold in this state will be reactivated the same as if the national program had never existed.

#### **§ 2-35-402. Applicability of provisions**

(a)(1) The provisions of this subchapter shall remain in effect so long as the national beef promotion and research program established by the Beef Promotion and Research Act of 1985 and the administrative orders and rules issued pursuant to that act continue in effect.

(2) If the program is terminated as a result of the referendum provided for in that act or for any other reason, the provisions of this subchapter shall expire. Thereafter, the provisions of § 2-35-301 et seq. concerning the levy and collection of an assessment on cattle sold in this state to support the Arkansas Beef Promotion and Research Program shall be enforced.

(b) The provisions of this subchapter shall not repeal or modify the provisions of § 2-35-301 et seq., but the provisions of § 2-35-301 et seq., so far as they relate to the levy and collection of an assessment of twenty-five cents (25¢) per head on cattle sold in this state, shall be suspended until such time as the national beef promotion and research program is terminated.

#### **§ 2-35-403. Assessments; records**

(a) The assessment levied pursuant to the national beef promotion and research program in the amount of one dollar (\$1.00) per head of cattle sold shall be collected, reported, and remitted to the Director of the Department of Finance and Administration by the persons, in the manner, and at the times prescribed by the Beef Promotion and Research Act of 1985 and the administrative orders and rules issued pursuant to the provisions of that act.

(b) Records concerning cattle sales and the collection of assessments shall be maintained.

(c) The national beef promotion and research program shall in all respects be conducted in Arkansas in conformity with federal law, orders, and regulations regarding the program so long as the national beef promotion and research program is in effect.

#### **§ 2-35-404. Rules and regulations**

The Director of the Department of Finance and Administration is authorized to adopt appropriate rules and regulations not inconsistent with this subchapter or the federal law, orders, and rules regarding the national beef promotion and research program as he or she may deem necessary to carry out the intent and purposes of, and to assure compliance with, this subchapter and the federal laws, orders,

and rules relating to the national beef promotion and research program.

**§ 2-35-405. Funds**

(a) The Director of the Department of Finance and Administration shall deposit in the State Treasury all funds collected by him or her pursuant to this subchapter and the federal Beef Promotion and Research Act of 1985 and the federal administrative orders and rules issued pursuant to that act. Beginning with funds collected by him or her on and after the first day of the month next following January 22, 1987, the Treasurer of State shall:

- (1) Credit to the National Beef Promotion Account fifty cents (5054A) of each one dollar (\$1.00) per head assessment collected;
- (2) Deduct three percent (3%) of the remaining funds for credit to the Constitutional Officers Fund and the State Central Services Fund; and
- (3) Credit the remainder of these funds to the State Beef Promotion Account.

(b)(1) Funds credited to the National Beef Promotion Account shall be remitted by the Arkansas Beef Council to the Cattlemen's Beef Promotion and Research Board established in the federal Beef Promotion and Research Act of 1985 in the manner prescribed in that act and in administrative orders and rules issued pursuant to that act.

(2) Funds credited to the State Beef Promotion Account shall be used in such manner as the Arkansas Beef Council deems appropriate for Arkansas beef promotion and research and for the operation and maintenance of the Arkansas Beef Council's office and the payment of expenses of the council members in accordance with § 25-16-901 et seq.

**§ 2-35-406. Promotion account; national**

There is created a National Beef Promotion Account in the Arkansas Beef Council Fund.

**§ 2-35-407. Promotion account; state**

There is created a State Beef Promotion Account in the Arkansas Beef Council Fund.