

Chapter 22 Dairy Promotion Act

4-22-1 Definitions.

As used in this chapter:

- (1) "Commission" means the Utah Dairy Commission.
- (2) "Dealer" means any person who buys and processes raw milk or milk fat, or who acts as agent in the sale or purchase of raw milk or milk fat, or who acts as a broker or factor with respect to raw milk or milk fat or any product derived from either.
- (3) "Producer" means a person who produces milk or milk fat from cows and who sells it for human or animal consumption, or for medicinal or industrial uses.
- (4) "Producer-handler" means any producer who processes raw milk or milk fat.

Enacted by Chapter 2, 1979 General Session

4-22-2 Utah Dairy Commission created -- Composition -- Elected members -- Terms of elected members -- Qualifications for election.

- (1) There is created an independent state agency known as the Utah Dairy Commission.
- (2) The Utah Dairy Commission consists of 13 members as follows:
 - (a) the commissioner of agriculture and food, or the commissioner's representative;
 - (b) the dean of the College of Agriculture at Utah State University, or the dean's representative;
 - (c) the president of the Utah Dairy Women's Association or the president of the Utah Dairy Women's Association's representative;
 - (d) a member from District 1, northern Cache County, which member shall have a Cornish, Lewiston, Richmond/Cove, or Trenton mailing address;
 - (e) a member from District 2, central Cache County and Rich County, which member shall have a Newton, Clarkston, Amalga, Smithfield, Benson, Hyde Park, Mendon, or Petersboro mailing address;
 - (f) a member from District 3, southern Cache County, which member shall have a Logan, Providence, Nibley, Hyrum, Paradise, Wellsville, College Ward, Young Ward, or Millville mailing address;
 - (g) a member from District 4, Box Elder County;
 - (h) a member from District 5, Weber and Morgan Counties;
 - (i) a member from District 6, Salt Lake, Davis, Utah, and Tooele Counties;
 - (j) a member from District 7, Wasatch, Summit, Duchesne, Uintah, and Daggett Counties;
 - (k) a member from District 8, Millard, Beaver, Iron, and Washington Counties;
 - (l) a member from District 9, Sanpete, Carbon, Emery, Grand, Juab, and San Juan Counties; and
 - (m) a member from District 10, Piute, Wayne, Kane, Garfield, and Sevier Counties.
- (3) The ex officio members listed in Subsections (2)(a) and (b) shall serve without a vote.
- (4) The members listed in Subsections (2)(d) through (m) shall be elected to four-year terms of office as provided in Section 4-22-6.
- (5) Members shall enter office on July 1 of the year in which they are elected.
- (6) The commission, by two-thirds vote, may alter the boundaries comprising the districts established in this section to maintain equitable representation of active milk producers on the commission.
- (7) Each member shall be:
 - (a) a citizen of the United States;

- (b) 26 years of age or older;
- (c) an active milk producer with five consecutive years experience in milk production within this state immediately preceding election; and
- (d) a resident of Utah and the district represented.

Amended by Chapter 301, 1999 General Session

4-22-3 Commission -- Organization -- Quorum to transact business -- Vacancies -- Ineligibility to serve -- Compensation.

- (1) The members of the commission shall elect a chair, vice chair, and secretary from among their number.
- (2) Attendance of a simple majority of the commission members at a called meeting shall constitute a quorum for the transaction of official business.
- (3) The commission shall meet:
 - (a) at the time and place designated by the chair; and
 - (b) no less often than once every three months.
- (4) Vacancies which occur on the commission for any reason shall be filled for the unexpired term of the vacated member by appointment of a majority of the remaining members.
- (5) If a member moves from the district that he represents or ceases to act as a producer during his term of office, he shall resign from the commission within 30 days after moving from the district or ceasing production.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

Amended by Chapter 378, 2010 General Session

4-22-4 Commission powers, duties, and functions.

The commission has and shall exercise the following functions, powers, and duties:

- (1) to employ and fix the salary of a full-time administrator, not a member of the commission, to administer the policies adopted, and perform the duties assigned, by the commission;
- (2) to conduct a campaign of research, nutritional education, and publicity, showing the value of milk, cream, and dairy products;
- (3) to encourage local, national, and international use of Utah dairy products and by-products, through advertising or otherwise;
- (4) to investigate and participate in studies of problems peculiar to producers in Utah and to take all actions consistent with this chapter to promote, protect, and stabilize the state dairy industry;
- (5) to sue and be sued, prosecute actions in the name of the state for the collection of the assessment imposed by Section 4-22-7, enter into contracts, and incur indebtedness in furtherance of its business activities;
- (6) to cooperate with any local, state, or national organization engaged in activities similar to those of the commission;
- (7) to accept grants, donations, or gifts for use consistent with this chapter; and
- (8) to do all other things necessary for the efficient and effective management and operation of its business.

Amended by Chapter 4, 1981 General Session

4-22-4.5 Exemption from certain operational requirements.

The commission is exempt from:

- (1) Title 51, Chapter 5, Funds Consolidation Act;
- (2) Title 51, Chapter 7, State Money Management Act;
- (3) Title 63A, Utah Administrative Services Code;
- (4) Title 63J, Chapter 1, Budgetary Procedures Act; and
- (5) Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 382, 2008 General Session

4-22-5 Commission may require surety bond -- Payment of premium.

The commission may require the administrator, or any of its employees, to post a surety bond conditioned for the faithful performance of their official duties. The amount, form, and kind of such a bond shall be fixed by the commission and each bond premium shall be paid by the commission.

Enacted by Chapter 2, 1979 General Session

4-22-6 Commission to conduct elections -- Nomination of candidates -- Expenses of election paid by commission.

- (1)
 - (a) The commissioner shall administer all commission elections.
 - (b) The commissioner shall mail a ballot to each producer within the district in which an election is to be held by May 15 of each election year.
 - (c) The candidate who receives the highest number of votes cast in the candidate's district shall be elected.
 - (d) The commissioner shall determine all questions of eligibility.
 - (e) A ballot shall be postmarked by May 31 of an election year.
 - (f)
 - (i) All ballots received by the commissioner shall be counted and tallied by June 15.
 - (ii) A member of the commission whose name appears on a ballot may not participate in counting or tallying the ballots.
- (2) Candidates for election to the commission shall be nominated, not later than April 15, by a petition signed by five or more producers who are residents of the district in which the election is to be held.
- (3) The names of all nominees shall be submitted to the commissioner on or before May 1 of each year in which an election is held.
- (4) All election expenses incurred by the commissioner shall be paid by the commission.

Amended by Chapter 73, 2010 General Session

Amended by Chapter 378, 2010 General Session

4-22-7 Assessment imposed on sale of milk or cream produced, sold, or contracted for sale in state -- Time of assessment -- Collection by dealer or producer-handler -- Penalty for delinquent payment or collection -- Statement to be given to producer.

- (1) An assessment of 10 cents is imposed upon each 100 pounds of milk or cream produced and sold, or contracted for sale, through commercial channels in this state.
- (2) The assessment shall be:
 - (a) based upon daily or monthly settlements; and
 - (b) due at a time set by the commission, which may not be later than the last day of the month next succeeding the month of sale.
- (3)
 - (a) The assessment shall be:
 - (i) assessed against the producer at the time the milk or milk fat is delivered for sale;
 - (ii) deducted from the sales price; and
 - (iii) collected by the dealer or producer-handler.
 - (b) The proceeds of the assessment shall be paid directly to the commission who shall issue a receipt to the dealer or producer-handler.
 - (c) If a dealer or producer-handler fails to remit the proceeds of the assessment or deduct the assessment on time, a penalty equal to 10% of the amount due shall be added to the assessment.
- (4)
 - (a) At the time of payment of the assessment, the dealer or producer-handler shall deliver a statement to the producer calculating the assessment.
 - (b) The commission may require other relevant information to be included in the statement.
- (5) If the mandatory assessment required by the Dairy and Tobacco Adjustment Act of 1983, Pub. L. No. 98-180, 97 Stat. 1128 (1150.152), is abolished, a producer who objects to payment of the assessment imposed under this section, may, by January 31, submit a written request to the commission for a refund of the amount of the assessment the producer paid during the previous year.

Amended by Chapter 173, 2005 General Session

4-22-8 Revenue from assessment used to promote dairy industry -- Deposit of funds -- Annual audit of books, records, and accounts -- Annual financial report to producers.

- (1) The revenue derived from the assessment imposed by Section 4-22-7 shall be used exclusively for the:
 - (a) administration of this chapter; and
 - (b) promotion of the state's dairy industry.
- (2)
 - (a) A voucher, receipt, or other written record for each withdrawal from the Utah Dairy Commission Fund shall be kept by the commission.
 - (b) No funds shall be withdrawn from the fund except upon order of the commission.
- (3) The commission may deposit the proceeds of the assessment in one or more accounts in one or more banks approved by the state as depositories.
- (4) The books, records, and accounts of the commission's activities are public records.
- (5)
 - (a) The accounts of the commission shall be audited once annually by a licensed accountant selected by the commission and approved by the state auditor.
 - (b) The results of the audit shall be submitted to the:
 - (i) commissioner;
 - (ii) commission; and
 - (iii) Division of Finance.

(c) It is the responsibility of the commission to send annually a financial report to each producer.

Amended by Chapter 128, 2004 General Session

4-22-8.5 Additional assessment for government liaison and industry relations programs -- Exemption from the assessment.

- (1) In addition to the assessment provided in Section 4-22-7, an assessment of three-fourths of one cent is imposed upon each 100 pounds of milk or cream produced and sold, or contracted for sale, through commercial channels in this state for the purposes specified in Subsection (3).
- (2) The three-fourths of one cent assessment shall be paid in the same manner as the assessment required by Section 4-22-7.
- (3) The commission shall use the revenue derived from the three-fourths of one cent assessment imposed by this section to contract out for services and expenses of government liaison and industry relations programs created to stabilize and protect the state's dairy industry and the health and welfare of the public.
- (4) A producer who objects to payment of the assessment imposed by this section may, by January 31, submit a written request to the commission to be exempted from payment of the assessment for that year. By January 1 each year, the commission shall send a postage-paid, self-addressed postcard to each person subject to the assessment which may be returned to request an exemption.

Amended by Chapter 301, 1999 General Session

4-22-9 State disclaimer of liability.

The state is not liable for the acts or omissions of the commission, its officers, agents, or employees.

Enacted by Chapter 2, 1979 General Session

4-22-9.5 Commission not eligible for coverage under Risk Management Fund.

The commission is not eligible to receive coverage under the Risk Management Fund created under Section 63A-4-201.

Amended by Chapter 20, 1995 General Session

4-22-10 Enforcement -- Inspection of books and records of dealer or producer-handler.

The commission at reasonable times may enter upon the premises and inspect the records of any dealer or producer-handler for the purpose of enforcing this chapter.

Enacted by Chapter 2, 1979 General Session