

Revised
November, 1995

NEBRASKA POULTRY AND EGG RESOURCES ACT

- Administration: This Act is administered by the Nebraska Department of Agriculture, Division of Poultry and Egg Development, Utilization and Marketing, A103 Animal Science Building, UNL, Lincoln, Nebraska 68583. Telephone: (402) 472-2051.
- Advisory Committee: The Department of Agriculture is advised on matters relevant to the administration of this Act by the Nebraska Poultry and Egg Development, Utilization, and Marketing Committee.
- Revisions: The provisions of this Act were last revised during the 1995 session of the Nebraska Legislature.
- Rules: A regulation has been promulgated under this Act, known as Title 31, Chapter 1, Nebraska Administrative Code - Poultry Marketing Regulations.

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2-3401. Act, how cited. Sections 2-3401 to 2-3416 shall be known and may be cited as the Nebraska Poultry and Egg Resources Act.

2-3402. Division of Poultry and Egg Development, Utilization, and Marketing; created. There is hereby established a Division of Poultry and Egg Development, Utilization, and Marketing in the Department of Agriculture.

2-3403. Terms, defined. For purposes of the Nebraska Poultry and Egg Resources Act, unless the context otherwise requires:

- (1) Department shall mean the Department of Agriculture;
- (2) Director shall mean the Director of Agriculture;
- (3) Committee shall mean the advisory committee created by section 2-3404;
- (4) Nebraska Poultry Industries, Inc. shall mean a body corporate formed under the provisions of the Nonprofit Corporation Act, the articles of incorporation of which were received by the Secretary of State and filed for record on January 13, 1970, and recorded as film roll number 35, Miscellaneous Incorporations at page 2206. Its purpose and objective is to promote, improve, and protect all branches of the poultry and egg industry and to coordinate all the activities of its member divisions of the poultry industry and to act as their agent in promoting such activities favorably to the poultry industry as a whole for the entire State of Nebraska;
- (5) Person shall mean any individual, firm, group of individuals, partnership, limited liability company, corporation, unincorporated association, cooperative, or any other entity, public or private;
- (6) Egg producer shall mean any person engaged in the production of commercial eggs who owns or contracts for the care of layer-type chickens;

(7) Turkey producer shall mean a person who owns or contracts for the care of turkeys sold through commercial channels;

(8) First purchaser shall mean any person who receives or otherwise acquires poultry or eggs from a producer and processes, prepares for marketing, or markets such poultry or eggs, including the poultry or eggs of his or her own production, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer when the actual or constructive possession of such poultry or eggs is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(9) Poultry shall mean domestic chickens and turkeys;

(10) Commercial eggs shall mean, in the case of eggs produced in this state, eggs from domesticated chickens that are sold for human consumption either in shell egg form or for further processing and, in the case of eggs produced outside of this state, graded eggs sold to retailers, wholesalers, distributors, or food purveyors;

(11) Egg products shall mean commercial products produced, in whole or in part, from shell eggs;

(12) Market development shall mean research and educational programs which are directed toward (a) better and more efficient production, marketing, and utilization of poultry, eggs, and the products thereof produced for resale, (b) better methods, to include, but not be limited to, public relations and other promotion techniques, for the maintenance of present markets and for the development of new or larger domestic or foreign markets and for the sale of poultry, eggs, and the products thereof, and (c) the prevention, modification, or elimination of trade barriers which obstruct the free flow of poultry, eggs, and the products thereof to market;

(13) Commercial channels shall mean the sale of poultry, eggs, or the products thereof for any use when sold to any commercial buyer, dealer, processor, or cooperative or to any person who resells any poultry, eggs, or the products thereof;

(14) Case shall mean a unit of thirty dozen eggs;

(15) Breaker shall mean a person engaged in the further processing of commercial eggs;

(16) Sale shall include any pledge or mortgage of poultry, eggs, or the products thereof to any person;

(17) Retailer shall mean a person who sells eggs or offers eggs for sale directly to consumers;

(18) Wholesaler or distributor shall mean a person who sells eggs to retailers, food purveyors, other wholesalers, or other distributors; and

(19) Food purveyor shall mean a person who operates a restaurant, cafeteria, hotel, hospital, nursing home, boarding house, school, government institution, or any other place where eggs are served in the shell or broken out for immediate consumption.

2-3404. Nebraska Poultry and Egg Development, Utilization, and Marketing Committee; members. (1) With the exception of the ex officio members, the duly elected directors of Nebraska Poultry Industries, Inc. shall serve as an advisory committee to be known as the Nebraska Poultry and Egg Development, Utilization, and Marketing Committee who shall advise the director on matters relevant to the poultry and egg industry.

(2) The ex officio members shall be designated by the committee. Ex officio members may include, but not be limited to:

(a) The director;

(b) Vice chancellor, University of Nebraska Institute of Agriculture and Natural Resources;

(c) Chairperson, Department of Animal Sciences, University of Nebraska;

(d) Extension Poultry Specialist, Department of Animal Sciences, University of Nebraska;

(e) General Manager, Nebraska Poultry Industries, Inc.; and

(f) A representative of a consumer organization.

2-3405. Committee; members; compensation. Members of the committee shall receive no salary, but shall be paid a per diem of twenty-five dollars for each day they are actually and necessarily engaged in the transaction of business, together with their actual and necessary expenses incurred while on official business.

2-3406. Committee; chairman; meetings. The President of Nebraska Poultry Industries, Inc. shall be chairman of the committee. The committee shall meet at least once every three months and at such other times as called by the chairman, the director, or by any three members of the committee.

2-3407. Department; powers. It is hereby declared to be the public policy of the State of Nebraska to protect and foster the health, prosperity, and general welfare of its people by protecting and stabilizing the poultry and egg industry and the economy of the areas producing poultry and eggs. The department shall be the agency of the State of Nebraska for such purpose. In connection with and in furtherance of such policy and purpose, such department, only upon the approval of a majority of the committee, may:

(1) Formulate the general policies and programs of the State of Nebraska respecting the discovery, promotion, and development of markets and industries for the utilization of poultry, eggs, and the products thereof;

(2) Adopt and devise a program of education and publicity;

(3) Cooperate with local, state, regional, or national organizations, whether public or private, in carrying out the purposes of the Nebraska Poultry and Egg Resources Act and to enter into such agreements as may be necessary;

(4) Adopt and promulgate such rules and regulations as are necessary to promptly and effectively enforce the act;

(5) Conduct, in addition, any other program that would enhance the image of poultry, eggs, and the products thereof. Such programs may include, but not be limited to, consumer education, research, information, advertising, promotion, and market development of poultry, eggs, and the products thereof;

(6) Make refunds for overpayment of fees according to rules and regulations adopted by the department;

(7) Appoint the head of the Division of Poultry and Egg Development, Utilization, and Marketing and assistants as may be necessary to carry out the intent and purposes of the act;

(8) Develop a biennial budget with fiscal year estimates of requirements to conduct the affairs of the division;

(9) Establish annually the fees to be collected; and

(10) Establish an administrative office, suitable for the furtherance of the intent and purposes of the act, with Nebraska Poultry Industries, Inc.

2-3408. Commercially sold eggs and turkeys; fee; how computed and assessed.

(1) There shall be paid to the director a fee of not to exceed five cents per case upon all commercial eggs sold through commercial channels to carry out the intent and purposes of sections 2-3401 to 2-3416. The fee for commercial eggs produced in this state shall be paid by the egg producer who owns the eggs and shall be collected and remitted to the director by the first purchaser. The fee for commercial eggs produced outside of this state and sold in this state to retailers, wholesalers, distributors, or food purveyors shall be paid to the director by the person importing such eggs into the state. Under the provisions of sections 2-3401 to 2-3416, no eggs shall be subject to the fee more than once.

(2) There shall be paid to the director a fee of not to exceed three cents per turkey grown in the State of Nebraska and sold through commercial channels. The fee shall be paid by the turkey producer and shall be collected by the first purchaser. Under the provisions of sections 2-3401 to 2-3416, no turkeys shall be subject to the fee more than once.

(3) The director may, subject to the approval of a majority of the members of the advisory committee, whenever he or she determines that the fees provided by this section are yielding more than is required to carry out the intent and purposes of sections 2-3401 to 2-3416, reduce such fees for such period as the director shall deem justified. In the event that the director, after reducing such fees, finds that sufficient revenue is not being produced by such reduced fees, he or she may restore in full or in part such fees to such rates as will in his or her judgment produce sufficient revenue to carry out the intent and purposes of sections 2-3401 to 2-3416.

2-3409. Fees; deducted; when. The fee, provided for by the provisions of section 2-3408, shall be deducted, as provided by sections 2-3401 to 2-3416, whether such poultry and eggs are stored in this state or any other state. Any fees remitted to the director may be refunded by the director upon the written application of any producer for a refund of the amount deducted by the first purchaser. The application for refund shall be submitted to the director within sixty days from the date of assessment of fees and shall have attached thereto proof of the fee deduction claim by the applicant.

2-3410. First purchaser; deduct fees; maintain records; public inspection; statement. (1) The first purchaser, at the time of settlement, shall deduct the poultry and egg fees as provided in section 2-3408 and shall maintain records as specified in the rules and regulations promulgated under sections 2-3401 to 2-3416. Such records shall be open for inspection and audit by authorized representatives of the department during normal business hours observed by the purchaser.

(2) The purchaser shall render and have on file with the department a statement of the number of poultry or cases of eggs purchased in Nebraska in accordance with the rules and regulations promulgated under sections 2-3401 to 2-3416. At the time the statement is filed, the purchaser shall pay and remit to the department the fees as provided for in section 2-3408.

2-3411. Director; annual report; contents; public record. The director shall make an annual report, at least thirty days prior to January 1 of each year, showing all income and expenses and any other facts relevant to sections 2-3401 to 2-3416. The report shall be available to the public.

2-3412. Director; power to exempt purchasers; when; eggs exempt from act.

(1) The director may exempt from the provisions of section 2-3408 and subsection (2) of section 2-3410 first purchasers whose annual average weekly volume is less than twenty-five thirty-dozen cases per week whenever the administrative cost of collecting and processing the fees received from such sources exceeds the amount of income derived therefrom.

(2) Eggs utilized for the production of baby chicks shall be exempt from sections 2-3401 to 2-3416.

2-3413. Nebraska Poultry and Egg Development, Utilization, and Marketing Fund; created; administration; department; accept funds.

(1) The State Treasurer is hereby directed to establish in the treasury of the State of Nebraska a fund to be known as the Nebraska Poultry and Egg Development, Utilization, and Marketing Fund, to which shall be credited all fees collected by the department pursuant to the Nebraska Poultry and Egg Resources Act. After appropriation, the Director of Administrative Services shall, upon receipt of proper vouchers approved by the director, issue warrants on such fund including refund payments authorized by section 2-3409 and the State Treasurer shall pay the warrants out of the money credited to such fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department may accept grants, contributions, or other funds from any private or federal, state, or other public source to be used to administer the Nebraska Poultry and Egg Resources Act and to conduct programs under such act.

2-3414. Hearing before Legislature's Committee on Agriculture; when; purpose. The director shall request a hearing by the Legislature's Committee on Agriculture when petitioned by either

fifteen percent of the egg or turkey producers or any number of producers representing thirty percent of the eggs or turkeys upon which fees are being collected to determine whether or not there is need to amend or repeal sections 2-3401 to 2-3416.

2-3415. Committee; research or development; limitation on authority. The Poultry and Egg Development, Utilization, and Marketing Committee shall not be authorized to set up research or development units or agencies of its own, but shall limit its activity to cooperation and contracts with the University of Nebraska Institute of Agriculture and Natural Resources and other proper local, state, regional, or national organizations, public or private, in carrying out the purposes of sections 2-3401 to 2-3416.

2-3416. Violations; penalties. Any person violating any of the provisions of sections 2-3401 to 2-3416 shall be guilty of a Class III misdemeanor.

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