

# VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

## CHAPTER 469

*An Act to amend and reenact §§ 3.2-1100, 3.2-1300, 3.2-1301, 3.2-1304, 3.2-1305, and 3.2-1306 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 3.2-1302.1; and to repeal § 3.2-1302 of the Code of Virginia, relating to the Beef Industry Council.*

[S 374]

Approved March 23, 2018

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-1100, 3.2-1300, 3.2-1301, 3.2-1304, 3.2-1305, and 3.2-1306 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 3.2-1302.1 as follows:**

**§ 3.2-1100. Diversion of dedicated revenues.**

A. The unexpended balances of the following special funds shall not be diverted or expended for any purpose other than each fund's intended purpose. The special funds are:

1. Apple Fund (§ 3.2-1206);
2. Peanut Fund (§ 3.2-1906);
3. Plant Pollination Fund (§ 3.2-2806);
4. Virginia Agricultural Foundation Fund (§ 3.2-2905);
5. Virginia Bright Flue-Cured Tobacco Promotion Fund (§ 3.2-2407);
6. Virginia Beef Cattle Industry Fund (§ 3.2-1305);
7. Virginia Corn Fund (§ 3.2-1411);
8. Virginia Cotton Fund (§ 3.2-1511);
9. Virginia Dark-Fired Tobacco Promotion Fund (§ 3.2-2407.1);
10. Virginia Egg Fund (§ 3.2-1605);
11. Virginia Horse Industry Promotion and Development Fund (§ 3.2-1704);
12. Virginia Marine Products Fund (§ 3.2-2705);
13. Virginia Milk Commission Assessments Fund (§ 3.2-3220);
14. Virginia Pork Industry Fund (§ 3.2-2005);
15. Virginia Potato Fund (§ 3.2-1810);
16. Virginia Sheep Industry Promotion and Development Fund (§ 3.2-2111);
17. Virginia Small Grains Fund (§ 3.2-2211);
18. Virginia Soybean Fund (§ 3.2-2311); and
19. Virginia Wine Promotion Fund (§ 3.2-3005).

B. No provision of this subtitle shall be construed to give any board the authority to expend funds for legislative or political activity.

## CHAPTER 13.

### ~~BEEF CATTLE INDUSTRY COUNCIL BOARD.~~

**§ 3.2-1300. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Board" means the Cattle Industry Board.

"Cattle" means ~~beef cattle sold for slaughter or feeding purposes, veal calves sold for slaughter or feeding purposes, beef-type and dairy dairy-type cattle sold for immediate slaughter providing such animals are sold for a consideration in excess of \$20~~ \$100 per head in the Commonwealth.

"Handler" means, at the point where the cattle are weighed or traded and the value determined, ~~operators of all stockyards an operator of any stockyard, livestock dealerships, slaughterhouses dealership, slaughterhouse, packing plants, and plant, or livestock auction markets market, or any other person that who purchases from a producer.~~

"Processor" or "packer" means any person that slaughters cattle.

"Producer" means any person engaged in the business of raising cattle; ~~or selling dairy cattle for slaughter.~~

**§ 3.2-1301. Cattle Industry Board; composition and appointment of members.**

A. The ~~Beef Cattle Industry Council Board~~, established by the passage of a referendum held pursuant to Chapter 375 of the Acts of Assembly of 1983, is continued within the Department.

The ~~Beef Industry Council Board~~ shall be composed of ~~15~~ 11 members, each of whom shall be a citizen of the United States and a resident of the Commonwealth. Each member shall have been actively engaged in the type of production or business that he will represent on the ~~Beef Industry Council Board~~ for at least five years, shall derive a substantial proportion of his income from such production or business, and shall continue to be actively engaged in such production or business during his term.

B. The Governor shall appoint the members, who represent the ~~various segments of the cattle~~

industry as follows:

1. ~~Seven commercial~~ Six beef cattle producers, one from each ~~feeder~~ cattle production area of the Commonwealth. The ~~seven~~ six areas shall be designated by the ~~Virginia Cattlemen's Association Board~~ in general accordance with *census-based feeder cattle marketing practices populations and updated every five years using USDA National Agricultural Statistics Service information.*

2. Two ~~dairymen~~ producers doing business in any of the six cattle production areas.

3. One ~~commercial~~ cattle feeder dairy producer.

4. Two ~~purebred~~ beef cattle breeders handlers.

5. Two livestock market operators.

6. One meat packer or processor.

C. Such appointments shall be chosen from the following recommendations made through the ~~Commissioner~~: by the Governor and confirmed in accordance with § 2.2-107. The Governor shall be guided in his appointments by nominations made by the Virginia Farm Bureau Federation, Virginia Cattlemen's Association, Virginia Livestock Markets Association, or other agricultural organizations representing Virginia cattle producers. Each such agricultural organization may nominate producers from each production area or for each Board position. The recommendations shall be submitted prior to the expiration of the member's term for which the nomination is being provided. If any such agricultural organization fails to provide its nominations, the Governor may appoint other nominees who meet the criteria set out in this subsection. However, no nomination shall be considered if the nominee currently serves on a board appointed pursuant to the USDA-approved collection and administration of the National Beef Checkoff in accordance with the federal 1985 National Beef Promotion Act and Order.

1. Each of the seven beef cattle producing areas shall recommend two producers to the Virginia Cattlemen's Association. The Virginia Cattlemen's Association shall recommend these 14 commercial beef cattle producers (two from each area); and at least one representative from each feeder cattle production area of the Commonwealth shall be appointed to the Beef Industry Council.

2. The Virginia Cattle Feeders Association shall recommend two commercial cattle feeders.

3. The Virginia State Dairymen's Association shall recommend four dairymen.

4. The Beef Cattle Improvement Association shall recommend four purebred beef cattle breeders, provided that not more than one be nominated from each of the four predominant breeder associations.

5. The Virginia Association of Livestock Market Operators shall recommend four livestock market operators.

6. The Virginia Cattlemen's Association shall recommend two persons, each of whom shall be either a processor or a packer.

The recommendations shall be submitted before the expiration of the member's term for which the nomination is being provided. If said associations fail to provide the recommendations, the Governor may appoint other nominees that meet the foregoing criteria.

#### **§ 3.2-1302.1. Cattle Industry Board officers and meetings.**

*The Board shall elect a chairman from the membership of the Board and such other officers as deemed appropriate. The Board shall meet once per year and at such other times as called by the chairman. The chairman may call special meetings at any time and shall call a special meeting when requested by four or more members of the Board.*

#### **§ 3.2-1304. Powers and duties of Cattle Industry Board.**

A. The Beef Cattle Industry Council may improve cattle industry markets through activities to develop, maintain, and expand the state, national, and foreign markets for cattle, beef, veal, and their products produced, processed, or manufactured in the Commonwealth. Board shall be responsible for the promotion and economic development of the Virginia cattle industry and of beef products, including the improvement of the commercial value of cattle for Virginia producers.

B. The Beef Industry Council Board may formulate and effectuate, directly or in cooperation with other agencies and instrumentalities specified in this chapter, sales stimulation and consumer or other educational programs designed to increase the use and consumption of beef, veal, and their products expend funds collected pursuant to § 3.2-1306 to provide for programs to serve the Virginia cattle industry for market development, education, publicity, research, and the promotion of the sale and use of cattle and beef products; to manage the funds so as to accumulate a reserve for contingencies; to establish an office and employ such technical, professional, and other assistants as may be required; and to contract for market development, publicity, research, advertising, and other promotional services.

C. The Beef Industry Council shall engage in the research, education, and promotion of the use and sale of beef and beef products, and shall have the following powers and duties:

1. To enter into contracts as the Beef Industry Council deems necessary for the experimental development of new or improved markets or marketing methods.

2. To conduct or contract for scientific research and services to discover and develop the commercial value of beef and veal and their products.

3. To make grants to research agencies for financing special or emergency studies or for the purchase or acquisition of facilities necessary to carry out research in keeping with the intent of this chapter.

4. To disseminate reliable information founded upon the research conducted under this chapter and

other sources, showing the uses of beef, veal, and their products.

5. To cooperate with any local, state, or national organization or agency engaged in work or activities similar to that of the Beef Industry Council and enter into contracts with such organizations or agencies for carrying on joint programs.

6. To act jointly and in cooperation with the federal and state governments, or any agency thereof in the administration of any program of the government or governmental agency deemed by the Beef Industry Council as beneficial to the production, marketing, or promotion of the beef and veal industry of the Commonwealth and expend funds in connection with such programs provided they are compatible with this chapter.

7. To enter into contracts that it deems appropriate to the carrying out of the purposes of the Beef Industry Council as authorized by this chapter.

8. To study and inform producers concerning state and federal legislation with respect to tariffs, duties, reciprocal trade agreements, import quotas, and other matters concerning the beef and veal industry.

9. To borrow money not in excess of estimates of its revenue from the current year's tax.

10. To appoint subordinate officers and employees of the Beef Industry Council and prescribe their duties and fix their compensation within the limitations of the Virginia Personnel Act (§ 2.2-2900 et seq.).

11. To acquire and maintain such office space and equipment as necessary to carry out the duties of the Beef Industry Council.

12. From the tax revenues it receives, to contract with organizations to carry out work and programs, approved by the Beef Industry Council, on a national basis.

D. The Beef Industry Council Board shall establish a meeting place anywhere within the Commonwealth, but the selection of the location shall be guided by consideration for the convenience of the majority of those most likely to have business with the Beef Industry Council Board or to be affected by this chapter.

E. The Beef Industry Council may adopt regulations necessary to carry out the purpose of this chapter.

F. D. An annual report shall be made by the Beef Industry Council Board to the Commissioner and shall be published as a public record to include a statement on receipts and itemized disbursements of the Virginia Beef Cattle Industry Fund.

### **§ 3.2-1305. Virginia Cattle Industry Fund established.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Beef Cattle Industry Fund, hereinafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All funds collected pursuant to § 3.2-1306 shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

All moneys credited to the Fund shall be used exclusively as set forth in this chapter. The Auditor of Public Accounts shall audit all the accounts of the Beef Industry Council Board as is provided for in § 30-133. Expenditures and disbursements from the Fund shall be made by the Beef Industry Council Board on warrants issued by the Comptroller upon written request signed by a duly authorized officer of the Beef Industry Council Board.

### **§ 3.2-1306. Collection and disposition of assessment by handler; reports.**

A. ~~Every~~ Beginning January 1, 2019, and ending July 1, 2023, every handler shall deduct ~~25 cents (\$0.25)~~ 50 cents (\$0.50) per head from the proceeds of sale owed by him to the respective owners of all cattle and calves when sold in the Commonwealth, with the exception of dairy cows going back to farms for milk production and those, animals selling for less than \$20 \$100 per head, or cattle of any type weighing 99 pounds or less. The handler shall remit such assessments to the Tax Commissioner on or before the last day of the each month following the end of each calendar quarter in which the handler sells cattle.

B. Every handler shall complete reports on forms furnished by the Tax Commissioner and submit such reports to the Tax Commissioner along with the assessments collected pursuant to subsection A. Each report shall include a statement of the number of cattle handled and the amount of money collected, and any other information deemed necessary by the Tax Commissioner to carry out his functions. Notwithstanding the provisions of § 58.1-3, upon request, the Tax Commissioner is authorized to provide the Beef Industry Council Board with a list of taxpayers and amounts paid.

C. Any assessment that is not paid when due shall be collected pursuant to § 3.2-1102.

D. Any producer from whom an assessment has been collected pursuant to subsection A who is dissatisfied with the assessment and the Board's use of the assessment may, within 90 days of the collection of the assessment, make a written demand with documented proof of sale for a refund of the assessment from the Board. The Board shall refund such assessments within 90 days of receiving a written demand for a refund.

2. That § 3.2-1302 of the Code of Virginia is repealed.

3. That the provisions of this act shall not affect the USDA-approved collection and administration

of the National Beef Checkoff in accordance with the 1985 National Beef Promotion Act and Order or the dispersal of any collected funds in accordance with the guidelines of a marketing plan approved by the national Cattlemen's Beef Promotion and Research Board.

4. That between July 1, 2018, and January 1, 2019, no handler shall collect or remit any Virginia cattle assessment pursuant to the provisions of subsection A of § 3.2-1306 of the Code of Virginia, as amended by this act. No Virginia cattle assessment that was unpaid or uncollected prior to July 1, 2018, shall be collected by the Department of Taxation.

5. That prior to expending a substantial amount of the funds collected pursuant to § 3.2-1306 of the Code of Virginia, as amended by this act, the Cattle Industry Board shall develop and publish a strategic plan that provides for programs to serve the Virginia cattle industry for market development, education, publicity, research, and the promotion of the sale and use of cattle and beef products. In its development of the plan, the Board shall include input sessions that are open to the public, including members of the cattle industries.

6. That the initial appointments of the members to the Cattle Industry Board, as created by § 3.2-1301 of the Code of Virginia, as amended by this act, shall be staggered as follows: (i) three beef cattle producers from three of the cattle production areas of the Commonwealth for terms of two years and three such beef cattle producers for terms of four years; (ii) one producer doing business in any of the six cattle production areas for a term of two years and one such producer for a term of four years; (iii) one dairy producer for a term of four years; and (iv) one handler for a term of two years and one handler for a term of four years.

7. That the unexpired term of any member of the Beef Industry Council, established by the passage of a referendum held pursuant to Chapter 375 of the Acts of Assembly of 1983, shall expire on July 1, 2018. Any such member shall be eligible for appointment to the Virginia Cattle Industry Board pursuant to the provisions of Chapter 13 (§ 3.2-1300 et seq.) of Title 3.2 of the Code of Virginia, as amended by this act.